

***United States Court of Appeals
for the Second Circuit***



APPENDIX

NO. 77-4121

United States Court of Appeals
FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

v.

MILGO INDUSTRIAL, INC.,

Respondent.

ON APPLICATION FOR ENFORCEMENT OF AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

APPENDIX

VOLUME III

Pages 630a - 918

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the Matter of: Milgo Industrial, Inc.

Board Case No.: 29-CA-4612

10. 1.75	Charge filed
12.31.75	Complaint and Notice of Hearing, dated
1. 8.76	Respondent's Answer to Complaint, dated
2. 4.76	Respondent's Demand for Bill of Particulars, dated
2. 9.76	Regional Director's Order Rescheduling Hearing, dated
2.23.76	General Counsel's Reply in Part and Opposition in Part to Demand for Bill of Particulars, dated
3. 3.76	Regional Director's Order on Demand for Bill of Particulars, dated
3. 3.76	Respondent's Motion to Compel a Supplemental Bill of Particulars, dated
3. 5.76	Charging Party's Request for Postponement, dated
3. 5.76	Regional Director's Order Rescheduling Hearing, dated
3. 8.76	General Counsel's Opposition to Respondent's Motion to Compel a Supplemental Bill of Particulars, dated
3.16.76	Administrative Law Judge's Order on Motion to Compel a Supplemental Bill of Particulars, dated
3.26.76	Respondent's Amended Answer to Complaint, dated
3.29.76	Hearing Opened
3.31.76	Hearing Closed
6.22.76	Administrative Law Judge's Decision issued
8. 2.76	Respondent's Exceptions to the Decision of the Administrative Law Judge, received
4.18.77	Decision and Order of the National Labor Relations Board, dated

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JD-388-76
Brooklyn, NY

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

MILGO INDUSTRIAL, INC.

and

Case 29-CA-4612

SHOPMEN'S LOCAL UNION NO. 455,
INTERNATIONAL ASSOCIATION OF
BRIDGE, STRUCTURAL AND ORNAMENTAL
IRON WORKERS, AFL-CIO

Jack D. Eisenberg, Esq., of
Brooklyn, NY, for the
General Counsel.
Arthur Kaufman, Esq. and David M.
Tolmach, Esq.; Jackson, Lewis,
Schnitzler and Krupman, Esqs.,
of New York, NY, for Respondent.
Vicki L. Erenstein, Esq.; Sipser,
Weinstock, Harper, Dorn and
Leibowitz, Esqs., of New York, NY,
for the Charging Party.

DECISION

Statement of the Case

PAUL E. WEIL, Administrative Law Judge: On October 1, 1975, Shopmen's Local Union No. 455, International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO, hereinafter called the Union, filed with the Regional Director for Region 29 of the National Labor Relations Board, hereinafter called the Board, a charge alleging that Milgo Industrial, Inc., hereinafter called Respondent, violated Section 8(a)(1), (3) and (5) of the National Labor Relations Act by failing and refusing to bargain in good faith with the Union and by other acts and conduct. On December 31, 1975, the said Regional Director, on behalf of the Board's General Counsel, issued a Complaint and Notice of Hearing alleging that Respondent violated Section 8(a)(1) and (5) of the Act by negotiating with the Union in bad faith and with no intention to enter into a collective bargaining agreement and by failing and refusing to furnish certain data requested by the Union to enable it to bargain effectively. By its duly filed answer, and by an amended answer, Respondent admitted the jurisdictional allegations of the complaint except that it denied knowledge and

information sufficient to form a belief as to the truth or falsity of the allegations concerning the filing and service of the charge and the representative status of the Union; but denied the commission of any unfair labor practices. Respondent additionally alleged as affirmative defenses that the complaint alleged dates beyond the 6-month statute of limitations in Section 10(b) of the Act and that the conduct of the Union during the course of negotiations evidenced a pattern of bad faith bargaining which precludes the Union from seeking the Board's protection. On the issues thus joined the matter came on for hearing before me at Brooklyn, New York, on March 29, 30 and 31, 1976. All parties were present and represented by counsel and had an opportunity to call and examine witnesses and to adduce relevant and material evidence. At the close of the hearing, the General Counsel made a brief oral argument. Respondent filed a brief which has been duly considered. On the entire record in this case and in consideration of the brief and oral argument I make the following:

Findings of Fact

I. The Business of Respondent

Respondent is a New York corporation engaged, in the Borough of Brooklyn, in the production, manufacture, sale, and distribution of metal construction items, metal sculpture, metal decorative and art objects, cut bodies and frames, and related products. In the course and operations of its business Respondent annually sells and distributes products valued in excess of \$50,000 which it ships in interstate commerce directly to States of the United States other than the State of New York. Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. The Labor Organization Involved

The Union is a labor organization within the meaning of Section 2(5) of the Act.

III. The Unfair Labor Practices

Background

On September 21 the Union commenced an organizing campaign among the 15 to 20 employees of Respondent at its shop located in Brooklyn, New York, and on or about October 1, 1971, demanded recognition. Recognition was refused and on October 19, 1971, unfair labor practice charges were filed. On August 29, 1972, an Administrative Law Judge issued a Decision finding that Respondent had engaged in a course of unfair labor practices and ordering Respondent to bargain with the Union. On June 6, 1973, the Board issued its Decision adopting the order of the Administrative Law Judge ^{1/} and ordered Respondent to bargain with the Union. On June 11, 1974, the United States Court of Appeals for the Second Circuit issued its

^{1/} 203 NLRB No. 152.

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judgment enforcing the Board's order and ordering the Respondent to abide by and perform the directions of the Board. On July 1, 1974, the Union by letter called upon the Respondent to meet and bargain with it over the terms and conditions of employment of its employees. The Union did not find appropriate by the Board in its order, i.e.

All production and maintenance employees employed by Respondent at its Brooklyn, New York plant, including leadmen, pattern and model makers, and the driver, but excluding office clerical and professional employees and all supervisors as defined in Section 2(11) of the Act.

Three weeks later, on July 24, 1974, Respondent's attorney, David Tolmach, responded to the Union's request for bargaining stating that he had been delegated to bargain on behalf of Respondent and requesting that the Union specify a date on which to meet and bargain. Finally a meeting was arranged by telephone for August 8, 1974, when the parties first met. Respondent was represented by Attorney Tolmach and by Bruce Gitlin, Respondent's vice president. The Union was represented by its president, Colavito who was its sole spokesman throughout the course of negotiating that ensued. All of the meetings were held in Tolmach's office in Manhattan and were attended by Tolmach and Colavito. On some occasions Bruce Gitlin was present.

At this first meeting Colavito gave Tolmach a copy of the Union's proposal in the form of a contract similar to the contract that the Union had in force at that time with a large employer association representing about 30 percent of the employers whose employees are represented by the Union. The parties went over the union contract to some small extent asking questions about the cost of the welfare, pension and other benefits in the union contract and the particular benefits that accrued to the employees for those costs.

In his July 1 letter Colavito had asked for the names, addresses, starting dates, classifications, and rates of pay plus other benefits in effect for the employees. On July 25, Respondent, over the signature of Bruce Gitlin, forwarded a list of 13 employees with their addresses, starting dates and current rates of pay, a paper entitled "fringe benefits." ^{2/} The covering letter also stated that since the Company has no classifications at present it was unable to satisfy the Union's request on this point. At the August 8 meeting Colavito discussed the job operations and classifications of the employees shown on the list provided by Respondent and asked for further information concerning precisely what each of the employees did. After discussing the matter set forth above Tolmach stated that he wanted to study the Union's proposal and that that would take him a couple of weeks. He stated that he would call the Union in a couple of days to set up another meeting. At this the meeting broke up after 1 1/2 to 2 hours.

^{2/} The entire text is as follows: fringe benefits A) Pension plan after 3 years. B) Two weeks vacation after 2 years, 3 weeks for leadmen C) 10 1/2 paid holidays D) Blue Cross after 7 years.

5 No call was received from Tolmach. After 10 days Colavito called him and was told that Tolmach was going on vacation. A meeting was finally set up for September 9 at 2 p.m. On this occasion the parties went over the Union's proposed contract and Respondent objected to each and every provision as they reached it, for various reasons.

10 Under the union contract the fringe benefits, welfare, pension, sick leave, annuity and apprentice training are all handled through trust funds contributed to by employers whose employees are represented by the Union and controlled by trustees jointly selected by the employers and the Union. Respondent flatly stated that it would have nothing to do with any of the trust funds and that its benefits were adequate.

15 Respondent flatly rejected a provision in the unit clause providing that the contract would bind any successors to Respondent, opposed the wording of the no-strike clause, rejected the provisions forbidding subletting unit work and providing for regional standards of pay where erection or field fabrication work was done outside of Respondent's plant by Respondent's employees. The negotiators passed all monetary items.

20 The parties met again on September 20 and October 7, 1974 and no agreements were reached. On September 20 Respondent handed the Union its first set of counterproposals which appear for the most part in items of substance to reflect Respondent's prior or existing status.

25 The parties met again on October 17 and again on November 4, 1974. On the latter day Respondent made its first monetary offer, 10 cents an hour across-the-board which was to include any cost involved in the improvement of fringe benefits. 3/

30 On November 4, 1974, Colavito again asked for more information concerning the jobs performed by the employees. He also asked for the cost of the pension plan and for a copy of the Blue Cross plan. He had been informed of the cost of the Blue Cross plan and that it was the Blue Cross-Blue Shield Executive Plan but was not informed what benefits it afforded. 35 With regard to the pension plan he had been given a copy of the pension trust agreement but was given no information as to the cost to the Respondent of the plan. By this time, after six negotiating sessions, the parties had reached partial agreement on some clauses and full agreement on the savings clause, 40 the Union having added a word to its proposal to make it conform to Respondent's desires. There also appeared to be some agreement on the clause referring to bonuses after Colavito assured Tolmach that the clause would not prevent Respondent from giving bonuses unrelated to production.

45 Also in the November 4th meeting Respondent announced that it would give an improved vacation offer of 1 week vacation to any employee with a

50 3/ The wage rates of the employees as of the commencement of bargaining range from \$2.50 to \$5.75 an hour and averaged about \$4.05 an hour. The offer thus comprises the offer of a raise of approximately 2.5 percent.

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year service, 2 weeks with 2 years' service and 3 weeks with 8 years' service. 4/

5 On November 12, 1974, the parties met again. Respondent raised
its pay offer to 25 cents an hour plus any improvements in the pension and
welfare plans that it might give. Respondent also announced that it was
10 willing to afford Blue Cross protection to the employees after 1-year service
rather than after 7 years' service as it had been offering in the past. No
agreements were reached in this meeting. Most of the meeting appeared to
15 have been taken up with Colavito's protest that the 25 cent offer was less
than the rise in the cost-of-living experienced by the employees and in a
discussion concerning the insertion in the unit description of the street
address of the Respondent upon which Respondent insisted, and which the Union
inferred to mean that Respondent could escape its contract by moving its
operation to another address.

20 The parties met again on November 22, 1974. The entire meeting
was spent discussing holidays, reporting pay, the grievance and arbitration
clause and overtime pay. Agreement was apparently reached at this meeting
on the arbitration clause, Respondent having agreed that the arbitrators
could be selected by the American Arbitration Association rather than through
the Federal Mediation and Conciliation Service which it had preferred.

25 At the close of the November 22 meeting Tolmach stated that he
wanted to draft a new proposal embodying all of the agreements reached and
whatever new proposals Respondent was prepared to make. He stated that it
would take a couple of weeks to prepare this and that he would telephone the
Union with regard to setting up a new date. 5/

30 In fact it was not until January 7 that the new draft was forwarded
to the Union and then only after numerous attempts by the Union to reach
Tolmach by telephone to set up a new meeting. In his January 7 letter Tolmach
suggested that Colavito call him, after Colavito had an opportunity to review
the contract, to arrange a date for the next negotiating session. Colavito
35 attempted to telephone Tolmach without success and apparently finally reached
him on February 3 and agreed to meet on February 14. Because no economic
offer had been contained in the January 7, 1975, proposed contract Colavito
asked Tolmach for an economic offer and in a February 3, 1975, letter Tolmach
reoffered the 25 cent an hour increase, the Blue Cross-Blue Shield after 1 year
40 of service and an additional week's paid vacation after 10 years of service all
effective on the signing of the new contract.

45 4/ Respondent's attorney and sole witness Tolmach denied that he had ever
offered a third week for 8 years' experience. Whether he or Colavito
is correct, at any rate in a subsequent written offer Respondent offered
a third week after 10 years' experience. Inasmuch as only four employees
had been with the Respondent 10 years and three of them were leadmen who
already received 3 weeks vacation this offer would have benefited only
50 one employee.

5/ Tolmach testified that he said it would take 3 weeks to prepare this
redraft. I see no need to resolve the issue of credibility.

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The meeting of February 14 was subsequently called off by Tolmach and the parties in fact did not meet again until March 3, 1975. At the March 3 meeting, during an exploration of the Company's wage offer, Colavito again asked for more information concerning what the jobs of the employees consisted of. He again asked for the cost of the pension plan and for a copy of the Blue Cross plan and for the amounts of bonuses which had been paid the unit employees. He also asked at this time about the Company's sick leave practice and was told that the Company had no practice or that Respondent was not sure what the practice was but would let Colavito know. Either at this meeting or the next meeting the information concerning the bonuses paid in past years was furnished by Respondent as well as listings of new employees that have been hired since the negotiating started. The only agreement reached at the March 3 meeting was when the Union agreed with Respondent's proposal with regard to checkoff after a slight wording change requested by the Respondent.

The parties met again on March 14, 1975. At this time the Union modified its unit proposal but Respondent still rejected it. The parties discussed a provision regarding funeral pay with Respondent's contending that it would pay only 3 days from the date of death to the date of the funeral inclusive and then only if they were workdays while the Union argued for 3 days pay whether or not they were workdays and whether or not the funeral was conducted on the third day. Colavito requested that any pay increase negotiated be made retroactive to the commencement of negotiations, but Tolmach stated that there would be no retroactivity. The Union suggested under the safety and health clause that Respondent supply half the cost of safety shoes. Respondent refused to do so stating it did not think safety shoes were as safe as other shoes. Respondent's offer of 3 weeks of vacation for 10 years of service was debated, with Respondent rejecting the Union's proposal that vacation pay be prorated when employees were discharged. Respondent contended that a discharged employee would get no vacation.

The parties met again on March 26, 1975, and spent the afternoon haggling about the plant visitation clause, with the Respondent contending that the union agent must make an appointment before visiting the plant, and the seniority clause. Respondent throughout negotiations to this point had contended that at least 120 days probation was required in its business. The Union contended that 30 days at the most was necessary to determine whether an employee was fit to remain in Respondent's employ. At this meeting the Union agreed that it would drop its demand for participation by Respondent in the joint vacation fund and proposed 1 week vacation for employees with one year, 2 weeks for employees with 2 years and 1 day additional vacation for each additional year after 2 years. This was rejected by Respondent. The Union reiterated its demand for the welfare and pension information and for additional information with regard to the job operations and classifications of employees.

Employee turnover

At the time of the election there were 17 employees in the unit. By July 24, 1974, when Respondent sent a list of its employees to the Union in response to the Union's request for this information, there were 13 employees in the unit, 8 of whom had been employed prior to the filing of

the unfair labor practice charges in the prior case. Three of these were the three leadmen, Salva, Lostinuso and Zeichner. Of the 10 cardsigners, identified in the prior proceedings only four remained on the payroll, L. Mussi, T. Mussi, A. Zichichi, and M. Hernandez.

By September 25, 1974, when a second list of employees was furnished the Union six employees of the July 24 list including M. Hernandez and A. Zichichi, were no longer employed, and seven new employees were shown to have appeared.

By March 14, 1975, when a third listing of employees was furnished the Union, only 10 of the September 25 employees remained and three more had been hired. By this time only two of the original cardsigners remained in Respondent's employ.

Summation of Background

The charge was filed on October 1. Accordingly the 10(b) period reaches back to April 1, 1975. The meeting of March 27 was the last meeting preceding the 10(b) period; it is to the next 6 months that we must look to determine whether the unfair labor practices alleged occurred. The status at the commencement of the 10(b) period was as follows:

In the 3 1/2 years since the Union had achieved the right to represent Respondent's employees the unit had remained approximately the same but only seven of the original employees remained of whom only two had been union adherents. Of the 8 1/2 months that had elapsed since the Circuit Court of Appeals ordered Respondent to bargain with the Union only 11 meetings had been held all of them brief afternoon meetings with two exceptions. The negotiations had resulted in almost no agreement on any contractual matter except the savings clause and a bonus clause. The Respondent at that time was offering a wage increase of 25 cents per hour, Blue Cross benefits to employees who had been in its employ over a year of whom there were seven and a third week of vacation to employees with over 10 years seniority, an improvement to only one employee inasmuch as three of the four ten year employees were leadmen who already had this fringe benefit from Respondent. The Respondent had not yet provided the cost of its pension plan or a copy of the Blue Cross-Blue Shield plan that was in effect with its employees and the Union was still seeking more information with regard to job operations and classification of the employees working for Respondent. All of the union proposals for fringe benefits including the vacation fund, the welfare fund, the pension fund, the sick leave fund, the apprentice fund and the annuity fund had been summarily rejected by Respondent and the remaining provisions including the unit, union recognition, union security, hours of work, overtime, holidays, no-strike clause, plant visitation clause, seniority, leave of absence, nondiscrimination clause, bulletin board clause, subletting clause and the field fabrication clause, remained in various states of disagreement with the parties taking up most of the little negotiating time they had discussing changes in wording which, in many cases, would have little or no affect on the unit as it then existed.

The negotiations during the 10(b) period

During the 10(b) period the parties met six times. April 18, May 2, May 29, July 11, September 11, and September 30, 1975. The September 30 meeting involved no negotiations whatsoever inasmuch as Respondent's attorney stated that he questioned his right to negotiate in view of the fact a decertification petition had been filed. 6/

The meeting of April 19 consisted largely of a discussion of the union recognition clause and the union security clause. Respondent continued to maintain its position that its street address should remain in the unit description and that no mention of successors be made in the recognition clause. The Union argued that it sought to protect the employees in the event Respondent went out of business or moved its plant, and Respondent countered with an offer to agree that in the event Respondent went out of business it would negotiate a severance provision. No agreements of any kind were reached on April 18.

The next meeting was held on May 2, and dealt first with the seniority clause with Respondent still contending that 120 days was the minimum probation period that it could accept. The Union suggested going as high as 45 days but the Company remained adamant in its 120-day provision. The parties also discussed vacation pay with the Union seeking pro-rata pay for employees who were discharged and Respondent insisting that no vacation would be paid them. The safety and health clause continued to be discussed. Respondent continued to insist that it would not provide safety shoes and that regular meetings of the safety committee was unnecessary in a small plant and that the safety committee could meet whenever it was necessary, while the Union continued to insist that meetings should be held at least once a month. The Union continued to contend that some provisions be made for paying employees who were taken into the field either for field fabrication or erection of the employer's products based on the scale of employees doing that kind of work in that geographical location. Respondent however continued to maintain that employees would be paid only shop wages. No agreements of any kind were reached at this meeting.

A meeting was arranged for May 9. According to Respondent's witness Colavito called off the May 9 meeting because he had oral surgery that day and subsequently called off the May 20 meeting thereafter arranged for some reason that Tolmach did not recall. According to Colavito Tolmach called off the May 9 meeting because he was too busy and changed it to May 20 on which day Colavito had oral surgery and called off the meeting arranging a new meeting for May 29. At any rate the parties met on May 29 and addressed themselves to a new series of documents sent to the Union on May 15 by Tolmach embodying either agreements or new proposals. In this, the third offer of the Respondent, it finally dropped its insistence on the insertion of its address in the unit description so that agreement was apparently met in this issue. With regard to the plant visitation clause Respondent changed its proposal to omit the provision for prior notice from the Union and to add the provision that the Union agent would not "unduly" interfere with the work in progress. With these changes the union agreed to this provision. Respondent, in the May 15 proposal, changed position in various regards on seniority, dropping its requirement,

6/ Case No. 29-RD-203, filed 9/23/75.

to that time, that deductions in seniority should be made for layoff, sick leave and leave of absence and substituting therefore only that seniority should be deducted for any time lost by reason of the fault of the employees such as a leave of absence. In the other direction
5 Respondent changed its prior position that employees report within 7 days when called back from a layoff to reporting within 5 days, although the 7 days provision had conformed to the proposal of the Union. Respondent also changed its provisions with regard to the length of unemployed time that would break seniority which had been on various steps of
10 seniority i.e., 3 months, 6 months, 1 year with varying breaks of layoff or leave of absence operating to break the employees' seniority, substituting a provision that a layoff or leave of absence exceeding 1 year would operate to break seniority. The Union position at all times had been based on an 18-month break. Although Respondent reworded its leave
15 of absence provision which originally had been modeled on the Union's it continued to limit funeral pay to work days up to three after the funeral and continued its insistence that seniority should not be a factor in the decision to grant paid time to employees to press for and get licenses required by Respondent in certain kinds of work.

20 Respondent presented a new nondiscrimination clause very similar to the Union's but added a provision that physical examinations could be required as a condition of continued employment at the Respondent's request.

25 With regard to bulletin boards Respondent continued to require that matter posted on the bulletin board by the Union be "official" while the Union continued to contend that it should be allowed to post any matters of interest to the employees from the Union. With regard to the safety committee Respondent continued to insist that the safety committee could
30 not shut down an operation that they agreed was potentially dangerous or injurious to the health or welfare of employees, but offered to provide accelerated arbitration in the event Respondent disagreed with the safety committee's decision. Respondent continued to insist that it would not furnish a water cooler or safety shoes.

35 With regard the clause providing for renegotiation in the event any portion of the contract was found unlawful Respondent offered to adopt the Union's proposal with the addition of the term "solely" as a limitation for the scope of the renegotiation.

40 At the meeting of May 25 the Company changes were discussed. Reporting pay particularly was discussed with both parties adhering to their positions. Colavito suggested trading agreement by the Union on the differences in the seniority clause for agreement by Respondent for the leave
45 of absence clause. Tolmach informed him that Respondent would make no trades. The leave of absence clause was discussed at some length, with nobody changing their position. They again discussed wage rates and the Union proposed a 12-1/2 percent wage increase plus a cost of living provision. This was countered by Tolmach with the response that the Company would have
50 to spend some time thinking it over and the meeting broke up. At this meeting, according to Colavito whom I credit, he again asked for information concerning job operations and classification, for the cost of the pension plan and for a copy of the Blue Cross-Blue Shield plan with which some of the employees were then covered.

At the close of the May 29 meeting a meeting was set up for June 19. According to Colavito he was informed by his office that Respondent called during the morning of June 19 and called off the meeting. According to Tolmach, however, he was prepared to meet and Colavito didn't show up. There is no question that Colavito would not have shown up either way inasmuch as he was at the time involved in negotiations for another contract and had called up his office with the apparent intention of calling off the meeting set for June 19. The parties thereafter by telephone set up their next meeting to be held on July 11. This was a short meeting because Colavito had to leave to attend the funeral of one of the Union officers. It lasted long enough however for Colavito to accept the Company's offer with regard to bulletin boards and part of the leave of absence offer of the Company. According to Tolmach's testimony they also discussed union security, working hours, and the plant visitation clause without resolving anything.

Another meeting was set up by telephone for July 24. Colavito presented himself at Tolmach's office and the receptionist said she had no idea that there was going to be a meeting and that Tolmach was not there. She gave Colavito a telephone number at which he could reach Tolmach and on calling him Tolmach apologized saying that he forgot to cancel the meeting. Tolmach suggested that he would call back the next day and make a date on which they could meet. He did not call the next day whereupon Colavito attempted for several days to reach him by telephone and his calls were unsuccessful and were not returned. Finally on August 12 Colavito had the Union secretary send Tolmach a letter stating "three weeks have passed since you called off our scheduled meeting. Despite the fact that we have made a number of phone calls you have failed to respond. Please call to arrange a meeting. On August 18 Tolmach addressed the letter back to the secretary-treasurer stating "due to a heavy case load I will not be able to meet with you and Bill until September 3." Please let me know what time would be most convenient for the meeting on this date. Colavito was unable to meet on the third and a meeting was arranged by telephone for September 11. At this meeting Colavito reiterated his request for information on classifications and job operations and complained about the gap between meetings and the slowness of the negotiations. He then modified the Union's request with regard to wage increase and asked for a 20 percent wage increase retroactive to January 1, 1975, in lieu of all past proposals in terms of retroactivity. Tolmach said Respondent wanted to study the proposal and get back to the Union. As the meeting broke up Colavito stated that he would like a response to the wage proposal and he still wanted the information so that the Union could set up proper classification systems for the Respondent. Tolmach said that he would get information to the Union on the job operations. Colavito also again asked for the pension costs and the benefits of the Blue-Cross-Blue Shield plan. The parties agreed to meet again on September 28.

After the September 11 meeting the decertification petition was filed on September 23 and on September 25 an unsigned letter was delivered to Colavito with a list of employees' "major job work," containing the names of 14 employees and with various jobs set out after their names. Most of the information specified during the hearing by Colavito required in order to "slot in" employees into the Union classification system was available from this list, the only information lacking appears to be whether the various employees were expected to or required to work from blueprints.

The September 30, 1975 meeting was of course the last meeting. Tolmach refused to negotiate in view of the filing of the decertification petition. Since October 1 the Union has made no further attempt to bargain with Respondent nor has Respondent made any attempt to communicate with the Union, other than for purposes of the instant hearing.

Discussions and Conclusions

I believe and I find that during the 10(b) period, that is to say between April 1 and October 1, 1975, Respondent made no attempt to bargain in good faith with the Union as the representative of the employees in the appropriate unit. Bargaining in good faith is defined in the Act as the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached, if requested by either party. This obligation does not compel either party to agree to a proposal or require the making of a concession. The Board in its decisions relating to surface bargaining has laid down various indicia by which the failure of the employer to bargain in good faith is exposed. These indicia include failing or refusing to meet regularly, or promptly, failing to promptly supply information necessary to and requested by the Union directly related to bargaining, shifting positions, retreating from agreements reached and taking an adamant position thus leaving no scope for bargaining, or demanding conditions that no self-respecting union could consider. The General Counsel contends that all of these indicia are demonstrated herein.

Any student of board law could contrive a script by which a party could bargain indefinitely without reaching agreement and without exposing any of the specific indicia heretofore pointed out by the Board in surface bargaining decisions. It has been my experience that an increasing amount of negotiating time between employers and labor organizations is spent with the parties trying to mark each other with the stigma of the Board's "indicia." The danger to the trier of fact is that he becomes so engrossed with an examination of each individual alleged indicium that he fails to note the broad picture. In short he can't see the forest for the trees.

Before proceeding with an examination of the indicia, all of which are said by the General Counsel to be here present, let us take the broad view.

Fifteen months after the Union finally demanded bargaining, with the authority of the Circuit Court to enforce its demand, the parties have reached no significant agreement, have resolved no economic issue between them and continued to spend their time haggling over nonessential language changes. Three and one-half years after the Union represented a majority and demanded bargaining, it is questionable whether it represents anyone.

In the 15 months of bargaining, 17 bargaining sessions were held and on two occasions during the 10(b) period, more than a month elapsed between negotiation sessions. Respondent attempts to lay the blame for the slow course of bargaining entirely on the Union and indeed as a defense to the charges herein, alleges that the Union engaged in bad faith bargaining. Yet Respondent's counsel on the witness stand admitted that he was the sole spokesman for the Respondent and that during the 10(b) period he was not in New York more than 2 or 3 days a week and during 2 weeks he was in his office no working day at all. This is in addition to whatever vacation period he took. Tolmach testified that each of the meetings was held on a date to which the Union agreed and I have no doubt this is true. Colavito testified that frequently throughout the course of bargaining he sought more regular meetings and longer meetings but that he was forced to take whatever dates Tolmach said he would be available.

I have no doubt that Respondent was at all times aware of the fact that the Union had little or no strength in the plant. In the last analysis, the ability of a union to negotiate a favorable contract depends on the muscle it brings to the bargaining table, and this muscle is measured by the employee support that the Union has in the plant. The only weapon the Union has to avoid being talked to death, as the General Counsel put it in his closing argument, is a threat of strike, and it is quite obvious that the Union's implied threat must have been a hollow one. But granted that the Union is weak here, Respondent's duty was, as ordered by the United States Circuit Court of Appeals to bargain collectively in good faith with an intention to reach agreement, and I don't see that it has done so. Without considering the specific indicia on which the General Counsel relies, I find that the record displays that Respondent throughout the course of bargaining made itself unavailable for regular bargaining, by engaging in a course of nit-picking, negotiating word by word, clause by clause, paragraph by paragraph and section by section. Most of the paragraphs in the Union's proposal are by no means exceptional, but Respondent made necessary the expenditure of large amounts of time to thrash out the objections that it raised, yet Respondent made it impossible to spend such amounts of time by appointing as its chief negotiator a lawyer who is so busy that he could not possibly give this client or this negotiation his full attention.

It is true that the act says that no concessions need to be offered or no agreements compelled, but the picture presented by the record herein is that concessions were made virtually impossible, an agreement was never approached. At the end of 15 months of bargaining only a small handful of provisions were agreed upon out of the 33 clauses offered by the Union. All of the fringe benefits proposed by the Union were summarily rejected and Respondent's offer with regard to a wage increase was insufficient even to keep the employees abreast of the rise in the cost of living. In short, after all this time the parties had taken one short step toward the foothills with the mountains left to climb.

Now with regard to the various indicia heretofore found by the Board to reveal bad faith bargaining, clearly as the General Counsel points out, Respondent's wage offer was far below that any self-respecting union could take back to its employees. Respondent's vacation offer was almost exactly that which it had offered before the Union came on the scene. Negotiations on Respondent's welfare offer were stultified by the fact that it had never

furnished information as to what the benefits were that Respondent was offering, and its proposal with regard to the pension fund was stultified by the failure of Respondent to furnish the cost of the pension fund to enable the Union to compare it with the Union's pension fund.

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With regard to the failure to meet and bargain at regular intervals, six meetings in 6 months can scarcely be said to be regular intervals. I credit Colavito's testimony that he attempted to get more regular and longer bargaining sessions, without success. While it was no doubt true that Colavito was busy himself during these periods of time, his pocket calendar, which Respondent placed in evidence, shows that he was by no means so busy that he could not have spent multiples of the amount of time negotiating that was available to him. Furthermore, credence is given to his testimony by Tolmach's admission that he was out of town 2 or 3 days in every week, and all of 2 weeks. The press of business of an employer has never been found by the Board to be a good excuse for the failure to meet at regular intervals and to bargain in good faith. The Board has compared the negotiation of a collective-bargaining agreement with the negotiation of any other type of contract and I can scarcely believe that Respondent has dragged its feet or permitted anyone negotiating on its behalf to drag its feet over so long a period in the negotiation of any business contract.

The General Counsel contends that Respondent reneged on agreements previously reached with the Union. I do not find the evidence adequate to sustain his position in this regard. Few enough agreements were reached, and the only one to which any great attention can be drawn concerned Respondent's purported offer of a third week of vacation for employees with 8 years seniority. This is completely denied by Tolmach. Both Colavito's and Tolmach's testimony revealed a major loss of memory with regard to the entire course of negotiating. But it is clear that the language in which negotiations were carried on was frequently not definitive but rather consisted of passing suggestions back and forth across the bargaining table, few of them having achieved the status of a real offer. I can readily envision that what occurred was something in the nature of Colavito suggesting 3 for 8 and Tolmach saying something to the effect that something might be worked out there. I think the same thing happened during the background period with regard to an alleged agreement on union security. Indeed, Colavito's testimony convinced me that Tolmach said, in essence, that there would be no problem with union security which is a far cry from accepting the Union's union shop clause. Thus when Tolmach came forth with his "Modified Maintenance of Membership proposal," 7/ I see no reneging on an agreement except to the extent that Colavito may have been misled into believing that Tolmach's assurance that something could be worked out amounted to an agreement.

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7/ The Modified Maintenance of Membership proposal would by its terms have permitted any employee to withdraw from the Union within 30 days after the signing of the contract or after the first anniversary of the contract, thus affording every employee the opportunity to become a free rider as soon as the contract was signed. The clause specifically provided that all employees should be informed of their withdrawal rights.

I have already dealt with the failure of Respondent to provide information sought by the Union to some extent. Admittedly, Respondent never gave the Union a copy of details concerning the benefits of its welfare plan, nor informed the Union of the cost of the pension plan. Respondent gave the costs of the pension plan prior to the changes required by the change in Federal law. It was the changed costs that Colavito continued to require and request. These two items are essential to meaningful bargaining by the Union. The Union on the other hand, at the Respondent's insistence at the first negotiating session, detailed the plans to which its proposal were tied and furnished copies of them. With regard to the information concerning job operations and classifications, I believe that, with some slight imagination and a diligent consideration of the bits and pieces of information that Respondent gave the Union, the employees could have been roughly slotted into the Union's classification scheme, although the slotting would have been rough because the varying wages paid to various employees were by no means consistent with the details of their employment as spelled out by Respondent. The difficulty of course was in the fact that Respondent throughout this period of time had a continual turnover of about half of its working force, so that distinguishing between mechanics and helpers of laborers among newly hired employees would present considerable difficulties. Nevertheless I find that Respondent presented the Union with all that it had and probably no more could have been ascertained by the Union without an actual plant visit by Colavito and an investigation into the work status of each employee.

I find that Respondent violated Section 8(a)(5) and (1) of the Act by failing and refusing to bargain in good faith with the Union. I find that, instead, it engaged in surface bargaining throughout the entire 10(b) period and indeed throughout the entire bargaining period. I find that it attempted to and succeeded in literally talking the Union to death, depending on the passage of time to annul any strength that the Union might have gained and in the expectation that a decertification petition would be filed when sufficient time had elapsed. In order to avoid any possibility of reaching agreement, I find that Respondent raised issues where no real issues existed, delayed bargaining and never offered anything in the nature of economic inducements that would have enabled a self-respecting union to swallow the noneconomic provisions such as a 120 day probation period, the complete lack of union security, the unilateral control of working hours, the restrictions on seniority, the limitations on the use of the bulletin board and the refusal to give a 5-minute washup period at the end of the workday, upon all of which Respondent insisted. While I recognize that no order to bargain can give the Union the strength of employee support that it apparently needs to force a good contract, it is not inconceivable that good faith bargaining by Respondent might result in some positive result of the future expenditures of time, energy and money by the Union, Respondent and the Board.

Conclusions of Law

1. Milgo Industrial, Inc. is an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

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JD-388-76

3. All production and maintenance employees employed by Respondent at its Brooklyn, New York plant, including leadmen, pattern and model makers, and the driver, but excluding office clerical and professional employees and all supervisors as defined in Section 2(11) of the Act, constitute a unit appropriate for the purpose of collective-bargaining within the meaning of Section 9(b) of the Act.

4. At all times relevant hereto the Union has been and is the exclusive collective bargaining representative of Respondent's employees in the above appropriate unit within the meaning of Section 9(a) of the Act.

5. By refusing to bargain in good faith with the Union as the collective-bargaining representative of its employees in the appropriate unit set forth above since April 1, 1975, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a) (5) and (1) of the Act.

6. The above unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

The Remedy

Having found that Respondent has engaged in certain unfair labor practices, I shall recommend that it cease and desist therefrom and that it take certain affirmative action designed to effectuate the purposes and policies of the Act.

Upon the foregoing findings of fact, conclusions of law and the entire record in this case and pursuant to Section 10(c) of the Act, I make the following recommended: 8/

ORDER

Respondent, Milgo Industrial, Inc., its officers, agents, successors and assigns, shall:

1. Cease and desist from:

(a) Failing and refusing to bargain with Shopmen's Local Union No. 455, International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO, as the collective bargaining representative of the majority of its employees in the unit consisting of all production and maintenance employees employed by Respondent at its Brooklyn, New York plant, including leadmen, pattern and model makers and the driver, but excluding office clerical and professional employees and all supervisors as defined in Section 2(11) of the Act.

(b) Failing and refusing promptly to supply the Union with information necessary to its collective bargaining.

8/ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

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JD-388-76

(c) In any like or related manner interfering with, restraining or coercing its employees in the exercise of rights guaranteed in Section 7 of the Act.

5 2. Take the following affirmative action designed to effectuate the policies of the Act:

10 (a) Upon request recognize and bargain collectively with the above-named Union as the exclusive collective-bargaining representative of its employees in the appropriate unit described above.

15 (b) Post at its office and place of business copies of the attached notice marked "Appendix." 9/ Copies of said notice on forms provided by the Regional Director for Region 29, shall be posted immediately upon receipt thereof and be maintained by Respondent for 60 consecutive days thereafter in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken to insure that said notices are not altered, defaced or covered by any other material.

20 (c) Notify the Regional Director for Region 29, in writing within 20 days from the date of receipt of this Order what steps Respondent has taken to comply herewith.

25 Dated, Washington, D. C.

June 22, 1976.

Paul E. Weil

Paul E. Weil
Administrative Law Judge

40 9/ In the event the Board's Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

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Appendix

JD-388-76

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NOTICE TO EMPLOYEES



POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

After a trial at which all sides had a chance to give evidence, the National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post this notice and we intend to carry out the order of the Board and abide by the following:

The Act gives all employees these rights:

- To engage in self-organization
- To form, join, or help unions
- To bargain collectively through representatives of their choosing
- To act together for collective bargaining or other mutual aid or protection
- To refrain from any or all of these things.

WE WILL NOT do anything that interferes with, restrains or coerces employees with respect to these rights.

WE WILL NOT fail or refuse to bargain in good faith collectively with SHOPMEN'S LOCAL UNION NO. 455, INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL AND ORNAMENTAL IRON WORKERS, AFL-CIO as the exclusive collective bargaining representative of our employees in the appropriate unit consisting of all production and maintenance employees at our Brooklyn, New York plant including leadmen, pattern and model makers and the driver but excluding office clerical and professional employees and all supervisors as defined in the Act.

WE WILL upon request bargain collectively in good faith with the above-named union as the exclusive collective bargaining representative of our employees in the appropriate unit described above.

WE WILL NOT fail and refuse to give the Union information necessary for its collective bargaining on behalf of our employees.

NILGO INDUSTRIAL, INC.
(Employer)

Dated _____ By _____
(Representative) (Title)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 16 Court Street, 4th Floor, Brooklyn, New York 11241 (Tel. No. 212-596-3386).

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FJM

D-2149

Brooklyn, N.Y.

FILE 56
Exec. Sec. 0

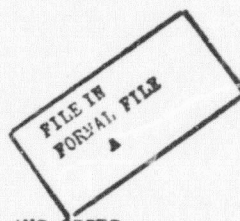
UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

MILGO INDUSTRIAL, INC.

and

SHOPMEN'S LOCAL UNION NO. 455,
INTERNATIONAL ASSOCIATION OF
BRIDGE, STRUCTURAL AND ORNAMENTAL
IRON WORKERS, AFL-CIO

Case 29-CA-4612



DECISION AND ORDER

On June 22, 1976, Administrative Law Judge Paul E. Weil issued the attached Decision in this proceeding. Thereafter, the Respondent filed exceptions and a supporting brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and brief and has decided to affirm the rulings, findings,^{1/} and conclusions of the Administrative Law Judge and to adopt his recommended Order.

^{1/} The Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an Administrative Law Judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. Standard Dry Wall Products, Inc., 91 NLRB 544 (1950), enfd. 186 F.2d 362 (C.A. 3, 1951). We have carefully examined the record and find no basis for reversing his findings.

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D--2149

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Milgo Industrial, Inc., Brooklyn, New York, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, except that the attached notice is substituted for that of the Administrative Law Judge. ^{2/}

Dated, Washington, D.C. April 18, 1977

John H. Fanning, Chairman

Howard Jenkins, Jr., Member

Betty Southard Murphy, Member

NATIONAL LABOR RELATIONS BOARD

(SEAL)

^{2/} The Administrative Law Judge's recommended "Notice to Employees" is hereby modified to conform to the recommended Order adopted herein.

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D-2149

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

After a hearing at which all sides had a chance to give evidence, the National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post this notice and we intend to carry out the order of the Board and abide by the following:

WE WILL NOT fail or refuse to bargain in good faith collectively with Shopmen's Local Union No. 455, International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO, as the exclusive collective-bargaining representative of our employees in the appropriate unit consisting of all production and maintenance employees at our Brooklyn, New York, plant, including leadmen, pattern and model makers, and the driver, but excluding office clerical and professional employees and all supervisors as defined in the Act.

WE WILL upon request bargain collectively in good faith with the above-named Union as the exclusive collective-bargaining representative of our employees in the appropriate unit described above.

WE WILL NOT fail and refuse to give the Union information necessary for its collective bargaining on behalf of our employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their rights guaranteed in Section 7 of the Act.

MILCO INDUSTRIAL, INC.
(Employer)

Dated _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 16 Court Street, 4th Floor, Brooklyn, New York 11241, Telephone 212-330-7709.

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GG2

July 1, 1974

Milgo Industrial Inc.
520 Morgan Avenue
Brooklyn, 22, N.Y.

Dear Sirs:

Pursuant to the National Labor Relations Board decision we are asking for the names, addresses, starting dates, classifications and rate of pay plus any other benefits presently in effect for the employees of Milgo Industrial Inc.

We are also ready to start negotiations and suggest any date in the week of July 8, 1974 to do so.

We expect to hear from you in the next few days concerning the above matters.

Very truly yours,

William Colavito
President

WC:lh
oeiu 153

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

652

JACKSON, LEWIS, SCHNITZLER & KRUPMAN

ATTORNEYS AT LAW
261 MADISON AVENUE
NEW YORK, N.Y. 10016

(212) 697-8200

LOUIS JACKSON
ROBERT LEWIS
THOMAS P. SCHNITZLER
WILLIAM A. KRUPMAN
NEIL M. FRANK
PATRICK L. VACCARO
DAVID M. TOLMACH
MARTIN F. PAYSON
VICTOR SCHACHTER

G. HARRISON DARBY
MELVIN S. KATZMAN
ROGER S. KAPLAN
ARTHUR R. KAUFMAN
DAVID I. KREITZMAN
PEGGY L. BRADEN
PHILIP S. MORTENSEN
ROBERT J. GIOVANNETTI
GREGORY I. RASIN
JOSEPH F. LEGNARD
BEATRICE LEVIDOW*

* ADMITTED N.J. ONLY

July 24, 1974²

VIA CERTIFIED MAIL
(Certified No. 452377)

Mr. William Colavito
Shopmen's Local Union No. 455
853 Broadway
New York, New York 10003

Dear Mr. Colavito:

Milgo Industrial Inc. has forwarded your letter
to our office.

Let us suggest that the first meeting be held in
our office. Please specify the dates that you will be avail-
able.

Very truly yours,

JACKSON, LEWIS, SCHNITZLER & KRUPMAN

David M. Tolmach
David M. Tolmach

DMT/pc

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✓

AC

653
Milgo Industrial Inc.

520 MORGAN AVENUE
BROOKLYN 22, N. Y.
EVERGREEN 8-4363-4393

July 25, 1974

Mr. William Colavito
Shopmen's Local Union No. 455
853 Broadway
New York, N.Y. 10003

Dear Mr. Colavito,

As you requested we have enclosed names, addresses, starting dates, rates of pay, and fringe benefit coverage for all employees included in the unit as of July 24, 1974.

Since the company has no classification at present we were unable to satisfy your request on this point.

Very truly yours,

Milgo Industrial Inc.

Bruce J. Gitlin

Bruce J. Gitlin

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✓

it

NAME	Address	Starting Date	Rate
PASQUALE SALVA	- 347 MARCELLUS RD. Mineola, N.Y. 11501	Oct. 1949	4.50
Rocco Lospinuso	- 8305 98 th St. Woodhaven, N.Y.	Feb. 1959	5.75
BERNARD Zerkwer	- 67 Stratford Rd. Plainville, N.Y. 11803	Sept. 1964	5.62
LINO MUSSI	- 461 Puritan Dr. Shirley, N.Y.	JAN. 1964	4.40
Armelo Foti	- 184 IRVING AVE. B'KLYN, N.Y.	Nov. 1966	4.00
Miguel A Hernandez	- 977 Metropolitan Ave. B'KLYN, N.Y. 11211	JULY, 1970	4.50
ANTONIO ZICHCHI	- 498 AUSTIN AVE 647-3728 - 354 HART ST. B'KLYN, N.Y. 11237	Oct. 1970	4.00
JOSE A. TOUSET	- 118-37 153 St. Jamaica, N.Y. 11434	Apr. 1972	4.90
PAUL MUSSI	- 461 Puritan Dr. Shirley N.Y.	Sept. 1970	3.75
Ramon M. Nieves	- 977 Metropolitan Ave. B'KLYN N.Y. 11211	Nov. 1973	2.75
Pablo Rivera	- 506 PARK Ave. B'KLYN, N.Y.	Feb. 1974	3.25
GABRIEL MASSIAS	- 331 MacDonough St. B'KLYN, N.Y. 11233	JUNE, 1974	2.50
DANIEL ROLDAN	- 506 PARK Ave. B'KLYN, N.Y.	Apr. 1974	2.75

GG413

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FRINGE BENEFITS

- A) Pension Plan after 3 years.
- B) 2 weeks vacation after 2 years
3 weeks for leadman
- C) 10½ paid holidays
- D) Blue Cross after 7 years

GC4C

✓

HP

Copy of proposed contract L455 gave C
at outset of negot (1st meeting).
Submitted by U. 656

AGREEMENT

between

✓ GCS
✓ SHOPMEN'S LOCAL UNION NO. 455

HK of the

INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL
AND ORNAMENTAL IRON WORKERS

(Affiliated with A.F.L.-C.I.O.)

and

Name of Company

City

State

Effective Date _____

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AGREEMENT

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THIS AGREEMENT, executed and effective as of the _____
day of _____, 19____, by and between _____

(Name of Company)

(Street Address)

(City)

(State)

(including its successor or assigns), hereinafter referred to as the "Company", and Shopmen's Local Union No. 455 of the International Association of Bridge, Structural and Ornamental Iron Workers (AFL-CIO), hereinafter referred to as the "Union", as the agent for and acting in behalf of the Company's production and maintenance employees, as the terms "production and maintenance employees" are defined in Section 1 hereof.

Should the Company sell its plant or plants covered by this Agreement to a Company which does not have a contract with the Union, or should the Company sell or merge its plant or plants or operations with a Company which does not have a contract with the Union, the purchaser of such plant or plants, and/or the merged Company shall abide by the terms set forth in this Agreement, beginning with the date of purchase or merger until this Agreement expires.

Should the Company move its plant or plants to a new location or locality outside the Metropolitan area, or merge its operations with those of another Company located outside the Metropolitan area which does not have a contract with the Union, or sell its operations to a Company located outside the Metropolitan area which does not have a contract with the Union, the Company, merged Company, or purchaser shall continue to be bound by the terms of this agreement until its expiration date.

WITNESSETH THAT THE PARTIES HAVE AGREED AS FOLLOWS:

659

SECTION 1

BARGAINING UNIT

This agreement shall be applicable to all production and maintenance employees including plant clericals employees of the Company (hereinafter referred to as "employees") engaged in the fabrication and/or manufacture of all ferrous and non-ferrous metals, iron, steel, and other metal products, including plastic products, also all maintenance employees of the Company engaged in maintaining machinery and equipment and other maintenance work in or about the Company's shop or shops, and to work done by such production and maintenance employees. This agreement is not intended and shall not be construed to extend to office clerical employees, superintendents, or to employees who are represented by any other union affiliated with the AFL-CIO with whom the Company has signed a collective bargaining agreement. This agreement is not intended and shall not be construed to extend to erection, installation or construction work, or to employees engaged in such work.

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SECTION 2

INTERNATIONAL UNION

The International Association of Bridge, Structural and Ornamental Iron Workers, the parent body of the Union (Hereinafter referred to as the "International") is not a party to this agreement and similarly shall have no right to redress thereunder against the Company for the breach hereof. However, before this agreement and any amendments thereto may become binding and effective, the International must approve this agreement and/or such amendments as to form. Such approval by the International as to form shall not be construed to make the International a party to this agreement or any amendments thereto or make said International, or any of its officers or agents, responsible or liable for any breach of this agreement or any amendments thereto; and similarly such approval by the International as to form shall not be construed to give said International, or any of its officers or agents, any right of redress against the Company for breach hereof.

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SECTION 3

UNION RECOGNITION

The Company recognizes the Union as the exclusive representative and agent of all of the Company's production, maintenance and plant clerical employees as defined in Section 1 hereof, for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment and other conditions of employment.

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SECTION 4

UNION SECURITY

(A) Each of the Company's employees included in the bargaining unit described and set forth in Section 1 hereof shall, as a condition of employment be or become a member of the Union not later than the thirty-first day following the effective date of this Agreement, or not later than the thirty-first day following the beginning of his or her employment, whichever is the later; and each such employee shall, as a condition of continued employment, remain a member of the Union in good standing to the extent authorized by Section 8(a)(3) of the Labor-Management Relations Act, 1947.

(B) Upon receipt of a written notice from the Union that an employee has not acquired membership in the Union or has not maintained his or her membership in good standing therein as provided for in Subsection (a) of this Section, the Company shall notify such employee that as a condition of employment he or she must comply with the provisions of Subsection (A) above within the next succeeding three (3) work days; and if, at the end of such three (3) work days, the employee does not furnish the Company documentary proof of compliance, such employee shall be discharged.

(C) The Company agrees that in the event that it requires
(Section 4 continued on page 4-a)

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Section 4. (Continued)

additional employees in the classifications of employment covered by this Agreement, it shall hire such additional employees from an employment office operated by the Union. In the event that said employment office is unable to supply help satisfactory to the Company within three (3) working days following the request, the Company shall be free to hire in the open market. The facilities of the Employment office operated by the Union shall be made available to both members and non-members of the Union and the Union warrants that in the operation of said employment agency and in referrals to the Company it will not discriminate against any individual applicant for employment because of non-membership in the Union or otherwise restrain or coerce such applicant because of non-membership in the Union. Any employee hired from the open market shall, promptly following his employment, be required to register and secure a registration slip as evidence of such registration at the Union employment office for the purpose of assisting the Union in administering this Agreement, and in observing and maintaining the standards desired by the Company in filling vacancies. The Company shall promptly notify the Union whenever such employees are hired.

(D) The expense of maintaining the Employment Office shall

(Section 4 continued on page 4-b)

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Section 4. (Continued)

be borne by all individuals registered for employment through it. Said individuals shall be placed on a roster maintained in the Employment Office and shall be known as "Registrants." Registrants who are not members of the Union shall be required to pay a sum not in excess of the pro rata share of the expenses of maintaining and operating the Employment Office which is being borne by each Union member. Payment of his pro rata share of expenses is to be made by the Registrant to the Union at the Employment Office for each month in which he is registered. Failure of a Registrant to make such payment or to comply with the rules of the hiring hall uniformly applied (which shall not be in conflict with any applicable law), shall result in the removal of his name from the roster.

(E) 1. Selection of applicants for referral to jobs shall be on a non-discriminatory basis and shall not be based on or in any way affected by union membership, by-laws, rules, regulations, constitutional provisions, or by any other aspect or obligation of Union membership, policies, or requirements or by race, creed or color.

2. The parties to this agreement shall post in places where notice to employees and applicants for employment are customarily posted, namely at the employment office of each Company, and

(Section 4 continued on page 4-c)

Section 4. (Continued)

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of the local union, all provisions relating to the functioning of the hiring arrangement.

3. Should any part hereof or any provisions herein contained be rendered or declared illegal, invalid or an unfair labor practice by reason of an existing or subsequently enacted legislation, or by any decree of a court of competent jurisdiction or by the decision of any authorized government agency, the remaining portions hereof shall not be affected thereby: provided, however, in such contingency the parties shall meet and negotiate with respect to substitute provisions for those parts or provisions rendered or declared illegal, invalid or an unfair labor practice.

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SECTION 5

CHECK-OFF OF UNION DUES

(A) Upon receipt of an authorization signed by any employee to whom this agreement is applicable, the Company shall, pursuant to the provisions of such authorization, deduct from such employee's earnings, on the first pay-day in each month, the amount owed to the Union by each such employee for Union dues; however, should any such employee have no earnings due him or her on the first pay-day in any month or should such employee's earnings be less than the amount such employee owes the Union for dues, then, in that event, the deduction shall be made from the employee's earnings on the next succeeding pay-day on which his or her earnings are sufficient to cover the amount of dues owed to the Union by such employee. On or before the 10th day of each month, the Company shall mail to the Financial Secretary of the Union a check made payable to the Union for the amount of dues the Company has withheld during such month, which shall be accompanied by a list, in duplicate, containing the names of the employees and the amount deducted from each such employee's earnings. Upon receipt of such check and list, said Financial Secretary of the Union shall sign one copy of such list, acknowledging receipt thereof, and promptly return such signed list to the Company.

(B) The Union shall keep the Company informed, in writing, of the amount of dues, including the amount of delinquent dues owed

(Section 5 continued on page 5-a)

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Section 5. (Continued)

by each employee, if any. As of the effective date of this Agreement, the Union dues are \$10.00 per month. Such dues shall not be changed except in accordance with the applicable provisions of the International Constitution and/or By-Laws of the Union and, in such event, the Financial Secretary of the Union shall notify the Company, in writing, and the amount of monthly dues as so changed shall thereafter be deducted by the Company from each such employee's earnings. The aforementioned authorization directing the Company to make the deductions as hereinabove provided for, when signed by an employee, shall be irrevocable for the duration of this Agreement or for a period of one (1) year, whichever date occurs first; and in the event any such employee desires to revoke such authorization on either of such dates, written notice thereof shall be given by such employee to the Company in accordance with the applicable provisions of such authorization; and the Company agrees to furnish the Union a copy of such notice.

(C) It is expressly understood and agreed that, upon receipt of proper proof, the Union will refund to the Company, or to the employee involved, any Union dues erroneously withheld from an employee's earnings by the Company and paid to the Union.

SECTION 6

668

HOURS OF WORK

Seven and one-half (7-1/2) consecutive hours, exclusive of the lunch period shall constitute a basic workday, and five (5) days, Monday through Friday (not to exceed 37-1/2 hours work), shall constitute a basic workweek for the first shift.

In the second and third shifts, if any, the basic workday shall consist of six and one-half (6-1/2) consecutive hours, exclusive of the lunch period, with pay for seven and one-half (7-1/2) hours (one and one-sixth (1-1/6) times the regular hourly rate of the employee in question); and five (5) such basic six and one-half (6-1/2) hour days, Monday through Friday (not to exceed thirty-two and one-half (32-1/2) hours) shall constitute a basic workweek for such shifts.

The Company shall maintain a regular schedule for the first shift forty (40) hours of work per week, consisting of eight (8) hours per day and for the second and third shift thirty-five (35) hours of work per week, consisting of seven (7) hours per day, with pay for eight (8) hours (one and one-seventh (1-1/7) times the regular hourly rate of the employee in question), and the employees shall be obliged to work such regularly scheduled workday and workweek, and the Employer shall be obliged to maintain such workday and workweek for the entire contract period.

(Section 6 continued on page 6-a)

Section 6. (Continued)

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The regular starting time and quitting time of the various shifts, as herein provided for, may be changed from time to time by mutual agreement between the Company and the Union.

SECTION 7

670

OVERTIME PAY

(A) The first one-half (1/2) hour of work immediately following the end of the basic workday shall be compensated for at the regular straight time hourly rate.

(B) All work done by an employee before or after the regular work hours of any shift (i.e., eight (8) hours for the first shift and seven (7) hours for all other shifts), or of the regular workweek, shall be paid for at overtime rates as hereinafter provided.

(C) Overtime pay shall be computed as follows:
Overtime rates for work performed Monday through Thursday shall be paid for at the rate of time and one-half for the first two (2) overtime hours and thereafter at the rate of double-time. Overtime rates for work performed on Friday shall be paid for at the rate of double-time, it being understood no work shall be performed Friday beyond the hours regularly worked on Fridays, except the loading and unloading of trucks, and in cases of emergencies.

(D) All work performed on Saturday and Sunday shall be paid for at the rate of double-time, it being understood that no work shall be performed on Saturdays or Sundays, except as provided in Subsection (F) below.

(Section 7 continued on page 7-a)

Section 7. (Continued)

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(E) All work done on any recognized holiday, or day observed as such, as provided in Section 8 of this Agreement, shall be paid for at three (3) times the employee's current regular straight-time hourly rate. However, employees assigned to the third shift for the day preceding such holiday, or day observed as such, shall complete such shift on the morning of such holiday at the rate applicable for the preceding day.

(F) No work shall be performed on Saturdays, Sundays, or any recognized holidays, or days observed as such, unless and until an official representative of the Union is notified verbally and confirmed in writing by a representative of the Company. Such notification shall specify the names of all employees who are scheduled to work on such Saturday, Sunday or holiday or day observed as such. Should the Company fail to provide such notification, the Company shall contribute to the Union's Sick and Disabled Fund an amount equal to eight (8) hours pay for each employee who worked on such Saturday, Sunday, or holiday, or day observed as such.

(G) When employees who have acquired three (3) months of seniority are on layoff, no overtime work shall be performed (except in cases of extreme emergency) which is covered by the classification in which such laid-off employee is classified.

(Section 7 continued on page 7-b)

Section 7. (Continued)

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(H) There shall be no discrimination in the assignment of overtime work; and overtime work shall, insofar as practical, be allocated equitably among the employees classified in the classification covering the work operation which is to be performed on an overtime basis. However, the shop steward shall be one of the employees assigned to overtime work.

(I) When overtime work is to be performed during the regular workweek, Monday through Friday, employees designated to perform such overtime work shall be given notice thereof no later than the end of the lunch break.

(J) There shall be no discipline imposed on any employee for his refusal to work overtime.

SECTION 8

673

HOLIDAYS

(A) For the purpose of this Agreement, New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Decoration Day, Fourth of July, Labor Day, Veteran's Day, Election Day, Thanksgiving Day, the day following Thanksgiving Day, the last working day before Christmas and Christmas Day or days observed as such, shall be recognized as holidays. Should any of the foregoing holidays occur on Sunday, the following Monday instead of such Sunday shall be recognized and observed as the holiday in question. No work of any description shall be performed on Labor Day, except in case of extreme emergency.

(B) The above holidays or days observed as such, shall be paid holidays, i.e., eight (8) hours straight time shall be paid therefor when no work is performed on any of such days, regardless of the day of the week upon which any such holiday occurs, including a holiday that occurs or is observed on Saturday. Holidays that occur during the vacation period of any employee shall be paid for in addition to vacation pay.

(C) In order for an employee to be eligible to be paid eight (8) hours straight time pay when no work is performed on any of the holidays specified in subsection (A) above, or days observed as such, he must have performed work for the Company during

(Section 8 continued on page 8-a)

Section 8. (Continued)

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the scheduled workweek in which the holiday occurs or is observed, unless failure to perform work during such week was because of being on paid vacation, as hereinafter provided for in this Agreement, or because of confirmed illness or injury that occurred or commenced during the sixty (60) days immediately preceding the holiday in question, or because of layoff by the Company that commenced during the fifteen (15) days immediately preceding the holiday in question, or for such other absence as shall have been authorized, directed or approved by the Company. New employees hired during the workweek in which a holiday occurs, shall not be entitled to pay for such holiday when no work is performed on such day by such employee, unless such employee performs work on a regular workday in the workweek prior to the occurrence of the holiday in question.

SECTION 9

675

REPORTING PAY AND/OR ALLOWED PAY

(A) Any employee ordered to report to work by an authorized Representative of the Company and who is not put to work, or who shall have appeared for work on a regular workday without previously having been informed by an authorized Representative of the Company not to report, shall, if able and willing to work, be paid for four (4) hours at the applicable rate for such day.

(B) Any employee commencing work on any day shall, unless failure to continue to work is due to the voluntary act or fault of the employee, or through an Act of God, be paid for not less than eight (8) hours at the applicable rate for such day. It is understood that an Act of God shall include, among other things, such things as fire of any nature, flood, failure of electricity or other sources of power beyond the control of the Company.

In the event that an Act of God prevents employees from continuing to work, the Company shall keep the employees available at the premises for two (2) hours during which they shall perform as directed. In the event that an Act of God occurs during the first two (2) hours the employees shall be paid a minimum of four (4) hours. If an Act of God occurs after the first two (2) hours, the men shall be paid the actual time worked.

(Section 9 continued on page 9-a)

Section 9. (Continued)

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plus two (2) hours, but in no event shall any employee be paid more than a full day's pay plus pay for overtime worked.

(C) Any person who is sent by the Union to the Company's shop, in response to a request made by an authorized Representative of the Company, shall, if able and willing to work and is not put to work, be paid for three (3) hours pay at the applicable rate for the work operation such person would have otherwise been assigned to, if such plant is in production.

(D) Any employee injured at the Company's plant, who is sent to a doctor and returns to work during his or her regular working hours the same day, shall be paid by the Company the applicable wage rate for such time thereby lost on such day by such employee; and if he or she shall, on any subsequent day on which he or she performs work for the Company, go to the doctor for treatment of such injury during his or her regular working hours or called to attend a compensation hearing in such case, he or she shall be paid by the Company the applicable wage rate for such time thereby lost on such day by such employee, but in no event for more than two (2) hearings on any one injury. Should an injured employee be admitted to a hospital or be instructed by the Company or the doctor to refrain from performing further work on the day such employee is injured, such employee shall receive the applicable hourly rate for the entire workday.

SECTION 10

677

GRIEVANCES AND/OR ARBITRATION PROCEDURES

(A) A chief Shop Steward and/or one (1) or more Shop Stewards shall be appointed by the Union from among the employees who are employed by the Company. Shop Stewards shall not be discharged or discriminated against for performing the duties required of a Steward, and in cases of layoffs and re-hires, the Chief Shop Steward shall be recognized as having a seniority status which is in excess of the seniority status of all other employees. The Assistant Shop Steward shall be recognized as having seniority status which is in excess of the seniority status of all other employees within his classification. Before a Shop Steward shall be laid off or discharged, the Company shall notify the Union, in writing, of such layoff or discharge, and a joint meeting between a designated representative(s) of the Union and a designated representative(s) of the Company shall be held to determine the justification for such layoff or discharge. If the discharge of any Steward is contested by the Union, the Steward shall remain on the job until such time as there is an arbitrator's decision sustaining such discharge providing that the Union institutes the said arbitration within five (5) days after notification of the discharge. If the Company violates this clause, the Union shall have the right to withdraw the employees, who shall suffer no loss of wages as a result thereof.

(B) The Chief Shop Steward and/or Shop Stewards shall have

[Section 10 continued on page 10-a)

authority to meet with representatives of the Company, individually or as a Committee, to represent the employees covered by this agreement for the purpose of adjusting complaints, disputes or grievances which may be submitted to such Stewards by an aggrieved employee or employees. In the event such Stewards are unable to obtain proper adjustment of such complaints, disputes or grievances as a result of such meeting with representatives of the Company, the matter in question shall be referred to the Business Agent(s) of the Union for the purpose of obtaining proper settlement of the matter in question, and in the event the Business Agent(s) of the Union and representative of the Company are unable to settle such complaints, disputes or grievances, same shall be referred to arbitration as hereinafter provided for in this section.

(C) The Shop Stewards provided for and mentioned in this Section shall have and possess power and authority to act for and bind the Union, only in connection with those functions, rights, obligations, and matters provided for in this agreement. They shall not have, or be deemed to have, any other authority to act for or bind the Union.

(D) Any difference, grievance, or dispute which is not settled, as hereinabove provided for in this Section and any difference or dispute between the Company and the Union arising out of this

(Section 10 continued on page 10-b)

Agreement or as to the meaning application or alleged violation of any provision, or provisions of this agreement shall, upon request of either party to this Agreement be submitted to an arbitrator designated by the American Arbitration Association, in accordance with its rules and regulations. "The Arbitrator's decision shall be final and binding upon the employee(s) involved and upon the parties to this Agreement."

(E) The foregoing provisions for arbitration are not intended and shall not be construed as in any wise qualifying or making subject to change any term or condition of employment specifically covered by this Agreement. The expense of the arbitrator shall be borne fifty (50%) percent by the Company and fifty (50%) percent by the Union.

SECTION 11

680

STRIKES AND LOCKOUTS

(A) The Company agrees not to cause, permit or engage in any lockout of its employees during the term of this agreement, except for refusal of the Union to submit to arbitration in accordance with Section 10, or failure on the part of the Union to carry out the award of the arbitrator. The Union agrees that it will not, nor will its members in concert, during the term of this Agreement, cause, permit, or take part in any strike, picketing, sit-down, stand-in, intentional slow-down or curtailment or restriction of production or interference with work in or about the Company's plant(s) or premises, except for refusal of the Company to submit to arbitration in accordance with Section 10, or the failure on the part of the Company to carry out the award of the arbitrator or where herein otherwise specifically provided.

(B) The term "intentional slow-down of production" shall mean a condition of wilful restriction of production by an employee which is within such employee's reasonable control.

(C) Should an employee or employees engage in any strike, picketing, sit-down, stand-in, intentional slow-down or curtailment or restriction of production or interference with work in or about the Company's plant(s) or premises before a grievance has been

(Section 11 continued on page 11-a)

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Section 11. (Continued)

submitted, as provided for in Section 10, or during the period a grievance is being processed, in accordance with the provisions of Section 10, including the arbitration provisions thereof, and should the Company notify the Union or any of its officers of such action, a Representative of the Union shall, as promptly as possible, instruct such employees to forthwith cease such action and promptly return to their respective jobs and comply with the applicable provisions of this agreement.

(D) The Company agrees that in consideration of the performance by the Union as set forth in Subsection (C) above with respect to any strike, picketing, sit-down, stand-in, intentional slow-down or curtailment or restriction of production or interference with work in or about the Company's plant(s) or premises which is contrary to the provisions of this Section, there shall be no liability for damages on the part of the Union, its officers, agents, or members for breach of contract, by suit or otherwise.

(E) Employees to whom this agreement is applicable shall not be required in the course of their employment to cross any picket line established in connection with any labor dispute, nor shall any employee be discharged or disciplined for refusal to cross any such picket line.

SECTION 12

682

PLANT VISITATION

Business Agents and/or other authorized representatives of the Union shall be permitted to enter the shop of any Company, to whom this agreement is applicable, without undue delay, at any time during which any employees are working for the purpose of investigating complaints and/or working conditions.

Section SENIORITY

683

(A) Employees shall be regarded as probationary employees until they have worked for the Company within the bargaining unit described and set forth in Section 1 of this agreement for a period of thirty (30) days, and during such probationary period, such probationary employees may be laid off or discharged without reference to length of service. When employees complete the aforementioned probationary period, they shall have a seniority status in their classification in accordance with their length of continuous service from the date of hiring. Layoffs due to lack of work, illness of the employee, or for other causes not due to the voluntary act or fault of the employee shall not constitute interruptions of continuous service, as those terms are used in this Section; and the employee's seniority status shall not be affected by such interruptions; provided, however, the continuous service of any employee and his or her seniority status based thereon shall be terminated for the following reasons:

1. Absence from work for three (3) consecutive days without notifying the Company of the reason for such absence, unless the employee can prove that his or her failure to give such notice was due to circumstances beyond his or her control.

Section 13 (continued)

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2. Failure to report for work and return to work when laid off, within seven (7) days after being notified by certified mail requesting him or her to do so. Any employee who is laid off shall keep the Company advised, in writing, of his or her current address, and the Company shall notify such employee, by certified mail addressed to such address, when an opening is available for him or her in line with his or her seniority status. Such notice shall specify the date and hour to report for work. A copy of such notice shall be given to the Shop Steward within twenty-four (24) hours after same is mailed or sent. Upon receipt of such written notice, the employee will notify the Company whether or not he or she will report for work at the time requested.
3. Discharge for proper cause.
4. When an employee resigns, quits, or accepts a position with the Company which is not included in the bargaining unit.

(Section 13 continued on page 13-b)

Section 13. (continued)

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5. Failure of an employee to report to work and return to work following the conclusion of an approved leave of absence, as provided for in this agreement.
6. When an employee has not performed any work for the Company, within the bargaining unit, for eighteen (18) consecutive months, for reasons other than injury or illness.

(B) In all cases of promotions (except to supervisory positions not covered by this agreement) and in all cases of increase or decrease of forces, employees shall be given preference in their classification in accordance with their length of continuous service. Employees may be given a temporary promotion with a trial period of thirty (30) days, and in such event the employees involved shall be paid the appropriate rate provided for elsewhere in this agreement for the work operation to which the employee(s) is temporarily promoted. If a layoff occurs in the classification from which the employee was promoted within ninety (90) days of that promotion, that employee must be demoted for purposes of layoff.

(Section 13 continued on page 13-c)

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Section 13. (continued)

(C) No employee in a higher rated classification shall do the work of an employee in a lower rated classification if it results in the layoff of an employee in the lower rated classification with greater seniority.

(D) If during the term of the agreement, the Company undertakes work for which the classifications contained in this agreement are not applicable, or should a new work operation be established, or should a type of machinery be installed in the Company's plant, the operation of which would require employees to be trained therefor, then, in either of such events, preference for assignments to such work shall be given employees with the greatest length of continuous service with the Company.

(E) All layoffs of employees shall be made as a result of a reduction of forces in accordance with the provisions of the first paragraph of this Subsection, and an employee shall not be discharged except for proper cause. Employees may be required to perform any of the work which is generally covered by the classification.

(Section 13 continued on page 13-d)

Section 13. (Continued)

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in which he or she is classified, and if the performance of such work is in accordance with the generally recognized shop requirements, employees shall not be subject to be laid off, except as a result of a reduction of force as hereinabove provided; however, if an employee is assigned to a type of work which he has not previously performed, and if, after being given a reasonable opportunity to learn to perform such work, he or she is unable to do so, then, in that event, the employee shall be subject to be laid off, if no other work is available.

(F) When it is necessary to lay off the employees in any classification, all probationary employees classified in such classification shall be laid off before any other employees are laid off.

(G) The Company will post on its Bulletin Board lists showing the current seniority standing of each employee and will furnish the Union a copy of each such list. Revised lists will be posted every two (2) months. Any appeals from the seniority list as posted must be made within ten (10) regular work days of posting; otherwise, the list will be considered final.

(H) If any mechanic shall have greater seniority than an apprentice, the apprentice must be laid off before the mechanic. It is understood, however, in all other respects apprentices are entitled to tenure and all rights and benefits under this agreement.

(Section 13 continued on Page 13-a)

Section 13. (Continued)

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(1) Any employee who has been on the payroll for one (1) week or more and who is laid off or terminated for any reason shall be notified by the Company one (1) work day in advance of such layoff or termination, except in cases of discharge for proper cause or in emergency situations; and if not so notified shall be paid for eight (8) hours at such employee's regular hourly rate. Furthermore, except in cases of temporary layoff for a period of five (5) work days or less, employees when otherwise laid off shall be allowed one-half (1/2) hour in which to pack their tools, etc., or, in lieu thereof, shall receive one-half (1/2) hour additional pay at their regular rate of pay.

SECTION 14

689

LEAVE OF ABSENCE

(A) Leaves of absence without pay shall be granted by the Company to any employee (except probationary employees) without prejudice to the employee's seniority or other rights. All approval of leaves of absence shall be made in writing which shall be signed by a designated representative of the Company and the Shop Steward for the Union, copy of which shall be furnished the employee and the Union. Leaves of absence will be for a period of not more than thirty (30) days; however, it may be extended upon request by the employee, subject to the approval of such request in writing by the Company, signed by a designated representative of the Company and the Shop Steward, copies of which shall be furnished the employee and a copy mailed to the Union.

(B) Any employee employed by the Company who is elected or appointed to an official position with the Union, which requires that he or she discontinue employment with the Company in order to perform the duties of such position, shall be granted a leave of absence, in writing, signed by a designated representative of the Company, for the period of such position, including any renewals thereof; and during the period of such

(Section 14 continued on page 14-a)

Section 14. (Continued)

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leave of absence, such employee shall retain his or her seniority status and other rights for the duration thereof.

If an employee has an official position with the Union, he shall be permitted time off to perform duties.

(C) The Company shall give employees time off with pay to secure a renewal of any license which is necessary in connection with his work. The Company shall also pay for the cost of such renewal.

When the Company determines it requires additional licensed employees, it shall select the most senior qualified employee to apply for the same. The employee shall be given time off with pay to take the test and the Company shall pay for the test as well as for the license.

(D) Employees shall be granted three (3) days paid leave in case of death in the employee's immediate family. The immediate family is defined to cover the employee's spouse, parents of the employee and spouse, blood brothers and sisters of the employee and spouse, and children of the employee or spouse. Proof shall be submitted if required.

SECTION 15

691

NON-DISCRIMINATION

(A) Neither the Company nor the Union, nor any party to this agreement, shall pass, establish, or attempt to enforce any rule or regulation or requirement which would constitute a violation of this agreement, or be inconsistent or in conflict with the provisions of this agreement.

(B) There shall be no discrimination against any employee, with respect to any term of employment or otherwise, by reason of race, color, creed, sex, or age; nor shall any employee be disciplined or discharged except for proper cause.

(C) The amount of work a member of the Union may perform shall not be restricted or interfered with by the Union or by its officers or members.

(D) Employees as a condition of continued employment shall not be required to undergo a physical examination.

SECTION 16

692

VACATIONS

(A) Employees shall be entitled to the following vacation benefits with pay therefor:

One (1) year but less than two (2) years continuous service in the industry in accordance with paragraph (E) (1) below, shall receive one (1) week vacation.

Two (2) years but less than eight (8) years continuous service in the industry in accordance with paragraph (E) (1) below, shall receive two (2) weeks vacation.

Eight (8) years but less than fifteen (15) years continuous service in the industry in accordance with paragraph (E) (1) below, shall receive three (3) weeks vacation.

Fifteen (15) years but less than twenty (20) years continuous service in the industry in accordance with paragraph (E) (1) below, shall receive four (3) weeks vacation.

Twenty (20) years or more continuous service in the industry in accordance with paragraph (E) (1) below, shall receive five (5) weeks vacation.

(B) For the 1975 Vacation Period, employees shall be entitled to 110% of their vacation pay.

(C) A vacation schedule shall be posted in the plant not later than April 15th of each year, and a vacation period shall be designated between June 1st and September 30th except that employees with children under 18 years of age shall not be obliged

(Section 16 continued on page 16-a)

Section 16. (Continued)

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to take their vacation in June and such employees who do not desire a June vacation shall immediately notify the Company if they are scheduled for such a vacation whereupon they shall be assigned a new vacation in accordance with past practice in the Company. On request of an employee and consent of the Company and Union other period or periods may be selected, such request shall not be denied except for good cause.

(D) Employees shall receive their vacation moneys from the Local 455 Industry Vacation Fund provided for in subsection (E) below. The Company shall not be responsible for vacation payments other than the stated contributions to the Vacation Fund. All companies which became members of Allied and which are not listed on Schedule A at the signing of this Agreement shall pay vacation benefits directly to their employees except to the extent assumed by the Vacation Fund under its rules and regulations.

(E) (1) Commencing July 1, 1973, the Company shall contribute seven and one-half (7-1/2) per cent of the weekly payroll of all employees who are covered by this collective bargaining agreement, employed by the Company, to a Joint Board of Trustees composed of an equal number of representatives from and named by the Union and an equal number of representatives named by

(Section 16 continued on page 16-5)

Allied Building Metal Industries, Inc. and representing the companies (each member of the Association) and all other Employers with whom the Union has collective bargaining agreements. The contributions shall be applied by the said Board of Trustees to an industry vacation fund to be created under an appropriate Agreement and Declaration of Trust to be operated as the "Local 455 Industry Vacation Trust Fund" for the purpose of establishing and paying for pooled vacation benefits, in accordance with a Vacation Plan and rules and regulations therefor to be adopted by the Trustees, and for the organization and administration of the Fund. The Fund, including its plan of benefits, shall be established in conformity with all requirements of law and shall be submitted to the Treasury Department for approval as a qualified plan.

(2) Commencing July 1, 1974, the Company shall contribute eight and one-half (8-1/2) per cent of the weekly payroll of all employees who are covered by this Agreement, employed by the Company, to the Trustees of the said Local 455 Industry Vacation Trust Fund.

(3) Under the said Agreement and Declaration of Trust, the Joint Board of Trustees shall provide vacation benefits and establish rules and regulations consistent with this Agreement and existent benefits and conditions.

(Section 16 continued on page 16-b)

Section 16. (Continued)

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(4) Payments to the Trustees of said Local 455 Industry Vacation Trust Fund provided for in this subsection shall be made monthly and shall be paid in full by the Company not later than the tenth of each month following the month for which such payments are applicable.

(F) Employees eligible for one (1), two (2) and three (3) weeks vacation pay shall be required to take their vacation.

Employee eligible for more than three (3) weeks vacation pay shall be required to take three (3) weeks of such vacation and, by mutual agreement between the employee and the Company, the employee may refrain from taking such additional weeks vacation.

If there are any employees on layoff, then employees on the job, in the classification in which such layoff exists, must be given time off instead of vacation pay for weeks over three (3) in number.

SECTION 17

696

BULLETIN BOARDS

The Company shall provide the Union with Bulletin Board space in its plant(s), to be used for the posting of notices relating to Union matters.

SECTION 18

697

SAFETY AND HEALTH

(A) A Safety and Health Committee shall be established in each plant covered by this agreement, which shall consist of a representative of the Union employed by the Company and a representative of the Company; and such Committee shall, at least once each month, make a thorough inspection of the plant for the purpose of assisting in the planning of a safety program. In the event the Safety and Health Committee discovers conditions which in its opinion, are dangerous or would adversely affect the health, life and limb of employees, such conditions shall be reported to the Company for correction and efforts to correct such conditions shall be initiated by the Company within forty-eight (48) hours. If, in the opinion of either of the members of the Safety and Health Committee, unsafe and/or unsanitary conditions exist, which would be hazardous to the employees working in such locations, such employees shall be so informed by the Committeemen and the employees will not be required to perform any further work until such conditions are corrected.

(B) Welding shield, goggles, gloves, and equipment which an employee would not normally be required to acquire shall be provided by the Company. It is understood that the Company will also cover 50% of the cost of a standard pair of safety shoes limited to one pair a year to all active employees with three months or more of seniority. The Company shall also furnish employees, when necessary, such protective clothing as is necessary because of inclement weather.

(Section 18 continued on page 18-a)

(C) Each employee shall be furnished, by the Company, an individual locker for his clothing and tools.

All toilets and washrooms shall be kept in a clean and sanitary condition, and shall be properly heated and ventilated and adequate soap and towels shall be provided.

(D) The Company shall provide the following: Water cooler; milk when welding or burning material which is coated with paint or that is galvanized: adequate exhaust system for removal of welding fumes and dust.

SECTION 19

699

PIECE, BONUS AND CONTRACT WORK PROHIBITED

There shall be no piece, bonus, or contract work done in the Shop and all work done shall be paid for at not less than the hourly rate of wages set forth in this agreement.

SECTION 20

SUBLETTING OF WORK

700

(A) The Company agrees not to sublet any work of a type which is normally fabricated or manufactured in its plant or plants covered by this agreement.

(B) The Company shall not perform the work of or act as a subcontractor for any employer against which the Union is conducting a strike, for the duration thereof.

SECTION 21

701

ERECTION AND FIELD FABRICATION

The provisions of this agreement shall be applicable only to the employees of the Company comprising the bargaining unit described and set forth in Section 1 hereof, and to work done by such employees as described and set forth in such Section; and it is therefore specifically understood and agreed that the provisions of this agreement shall not be construed as being applicable to erection, field fabrication or construction work, or to employees engaged in such work, and the Company agrees it will not require any employee covered by this agreement to perform such work for the Company. It is understood and agreed that the foregoing provisions of this section shall not apply to Shopmen sent to the site of the construction to take measurements or to make templates.

SECTION 22

702

PAY DAYS

The Company agrees to pay the employees on a regular stated pay day in each week in cash or by check during working hours. Employees shall be reimbursed once each month for the fee paid for cashing their checks provided same is cashed by a licensed check cashing agency. When an employee is laid off or discharged, he shall be paid off immediately in cash or by check. The Company is required to install a time clock and time cards in order to keep proper record of employees time worked. The Company must keep time cards and all other payroll records available for at least three (3) years.

SECTION 23

703

SAVING CLAUSE

It is assumed by the parties hereto that each provision of this agreement is in conformity with all applicable laws of the United States and the State of New York. Should it later be determined that it would be a violation of any legally effective Governmental or State Order or Statute to comply with any provision or provisions of this agreement, the parties hereto agree to renegotiate such provision or provisions of the agreement for the purpose of making them conform to such Governmental or State Order or Statute so long as they shall remain legally effective, and the other provisions of the agreement shall not be affected thereby.

WAGE RATES AND CLASSIFICATIONS

(A) Each employee shall be classified in that one of the hereinafter specified classifications which covers the work operation(s) such employee performs.

(B) Effective July 1, 1973, the wage rates of employees classified as "Foremen" and "Finishers" shall be increased forty-five (\$.45) cents per hour, and effective July 1, 1974, the wage rate of all employees classified as "Foremen" and "Finishers" shall be increased fifty (\$.50) cents per hour.

(C) Effective July 1, 1973, the wage rates of employees classified as "Mechanics" shall be increased forty (\$.40) cents per hour, and effective July 1, 1974, the wages of all employees classified as "Mechanics" shall be increased forty-five (\$.45) cents per hour.

(D) Effective July 1, 1973, the wage rates of employees classified as "Shop Helpers" and/or "Laborers" shall be increased thirty-five (\$.35) cents per hour, and effective July 1, 1974, the wage rate of all employees classified as "Shop Helpers" and/or "Laborers" shall be increased forty (\$.40) cents per hour.

There shall be at least one Foreman in each shop, and Foremen who perform work with tools shall comply with the

(Section 24 continued on page 24-a)

Section 24. (Continued)

705

provisions of Section 4, Subsection (A) of this Agreement with respect to membership in the Union and shall be paid not less than sixty (\$.60) cents per hour above the hourly rate hereinafter specified for the classification of "Finishers".

(E) The minimum hourly rates shall be as set forth below:

	Effective 7/1/73	Effective 7/1/74
<u>FINISHERS</u> Who work from drawings and sketches and at least one (1) Finisher shall be employed for each nine (9) Mechanics	\$ 6.90	\$ 7.40
<u>MECHANICS</u> Employees classified in this classification shall not be permitted to work from blue prints, drawings or sketches	6.25	6.70
<u>SHOP HELPERS AND/OR LABORERS</u> Shop Helpers and/or Laborers shall not be permitted to handle any tools or machinery, except that Shop Helpers and/or Laborers who use air or electric sprayers to apply shop coats of paints shall receive twenty-five (\$.25) cents per hour more than the minimum rate herein specified. It is further agreed that the work of Shop Helpers and/or Laborers includes the unloading and loading of trucks, moving and handling material, applying priming or shop coats, or other work incidental thereto	5.40	5.80

(Section 24 continued on page 24-b)

Section 24. (Continued)

706

"Spray Painters" temporarily assigned for ten (10%) per cent or more of his time during any three (3) month period shall retain the higher rate of pay as a permanent feature of his rate.

Past practices established by custom (which are not in violation of the provisions of this Agreement) regarding the work covered by the foregoing classifications shall be maintained.

"Overhead Crane Operators" and "Boom Operators" shall be included in the classification of "Mechanics".

(F) Any employee receiving more than the minimum rate hereinabove specified for his or her classification shall not be reduced.

(G) The following provisions shall apply to "Apprentices":

	Effective 7/1/73	Effective 7/1/74
Start	\$ 4.65	\$ 5.10
After 6 months	4.80	5.25
After 1 year	5.00	5.45
After 1-1/2 years	5.25	5.70
After 2 years	5.55	6.00
After 2-1/2 years	5.90	6.35
After 3 years	6.25	6.70

(Section 24 continued on page 24-c)

After completion of three (3) years of apprenticeship, the employee shall be classified in the classification of "Mechanic" and paid not less than the appropriate rate applicable to such classification.

All Apprentices shall be paid in accordance with their previous length of service in accordance with the above schedule.

A new Apprentice shall not be employed so long as there is any Apprentice available for employment who was previously employed under the jurisdiction of the Union, irrespective of the firm by which such Apprentice was previously employed.

The number of Apprentices employed by the Company shall at no time exceed (1) Apprentice for each six (6) other employees covered by the terms of this Agreement, exclusive of "Shop Helpers".

Apprentices shall be obliged to attend classes stipulated and approved under the Apprenticeship Program for four (4) hours, once each week during regular working hours and accordingly, shall be given time off for such purpose. Any apprentice who refuses or fails to attend classes under the rules of the Apprenticeship Fund shall be terminated as an Apprentice and shall be subject to discharge or other disciplinary action. No more than twenty-five (25%)

Section 24 continued on page 24-d)

Section 24. (Continued)

708

per cent of the Apprentices employed by a Company shall attend classes at any one time. In shops that employ under four (4) Apprentices, no more than one (1) Apprentice shall attend class at any one time. Apprentices shall be considered employees of the Apprenticeship Fund during their attendance at the said classes, and while in transit between their shop and the said classes, and shall receive their pay for the four (4) hours lost from work from the Fund, provided they attend said classes.

(H) It is specifically understood and agreed that any conditions of employment or benefits applicable to employees, existing in the Company's plant, which are not specifically provided for in this Agreement and which are more beneficial to the employees than the terms and conditions set forth in this Agreement, shall be continued in full force and effect during the terms of this Agreement, notwithstanding any provision contained in this Agreement to the contrary.

SECTION 25

709

WASH-UP AND REST PERIODS

There shall be one rest period of ten (10) minutes' duration, which shall be granted during the first half of each shift. Employees who work two (2) or more hours overtime shall be granted a fifteen (15) minutes rest period during the overtime period. During each of the aforementioned rest periods each employee shall be paid the applicable hourly rate, and no work shall be performed during such periods.

The last five (5) minutes of each shift shall be designated as a "wash-up period," during which no work shall be performed, and during which each employee shall be paid the applicable hourly rate.

SECTION 26

WELFARE FUND

710

(A) Commencing July 1, 1973, the Company will pay seven (7%) per cent of the weekly payroll of all employees who are covered by this collective bargaining agreement employed by the Company, plus three (3¢) cents per hour for each straight time hour of pay paid to each of such employees, and an amount proportionate thereto for each premium hour paid -- e.g., four and one-half (4½¢) cents for each time and one-half hour paid and six (6¢) cents for each double time hour paid, etc., to a Joint Board of Trustees composed of an equal number of representatives from and named by the Union and an equal number of representatives named by Allied Building Metal Industries, Inc. and representing the Companies (each member of the Association) and all other employers with whom the Union has collective bargaining agreements, which money shall be applied by the said Board of Trustees to a Welfare Fund created under an Agreement and Declaration of Trust dated April 4, 1949 presently in existence, and operated as the Iron Workers Local 455 Welfare Fund.

Commencing July 1, 1974, and for the duration of this Agreement, the Company will pay eight (8%) percent of its weekly payroll of all employees covered by this collective bargaining agreement to the said Joint Board of Trustees.

(B) Under the aforementioned Agreement and Declaration of Trust the Board of Trustees may pay, or may provide for the payment of premiums on such policies of Group Life Insurance, Group Accidental Death and Dismemberment Insurance, Group Accident and Sickness Benefits, Group Hospital, Medical, Surgical, Dental and Related Benefits for all eligible employees, their wives and their children under nineteen (19) years of age, in such manner and amount as the Trustees may determine except, however, that the Trustees shall, out of the Funds in their possession, pay, or provide for the payment of, premiums on policy or policies of Group Insurance for Sickness Benefits, which shall provide disability insurance benefits required to be made and paid under Chapter 600 of the Laws of the State of New York, approved and effective April 13, 1949, together with amendments if any. It is further agreed that this Agreement and the specific provisions for sickness and disability benefits hereunder and such other benefits hereinabove mentioned, as the Trustees may determine shall be in lieu of any obligations imposed upon the Company signatory to this Agreement and/or its employees, for insurance and contributions required or

(Section 26 continued on Page 26-b)

Section 26. (Continued)

712

provided for in such mentioned Law.

(C) It is further agreed that payment by the Company (including each member of "Allied" and all other firms with whom the Union has collective bargaining agreements) with respect to or required by any Federal, State, or Municipal legislation which may be enacted during the term of the Agreement between the Allied Building Metal Industries and the Union, and which would require the Company to pay or contribute towards the payment of Life Insurance or Health, Hospitalization, or Medical Benefits, shall be credited to the amount required to be paid thereunder, unless the Welfare Plan effective hereunder shall furnish the benefits required by such legislation.

(D) The Company shall make payments in full hereunder not later than the tenth (10th) day of each month following the month in which contributions are due.

SECTION 27

PENSION FUND

713

(A) Commencing July 1, 1973, and continuing through June 30, 1974, the Company will pay eight (8%) per cent to the weekly payroll of all employees who are covered by this collective bargaining agreement employed by the Company plus five (5¢) cents per hour for each straight time hour of pay paid to each of such employees, and an amount proportionate thereto for each premium hour paid e.g., seven and one-half (7½) cents for each time and one-half hour paid and ten (10¢) cents for each double time hour paid, etc., to a Joint Board of Trustees composed of an equal number of representatives from and named by the Union and an equal number of representatives named by Allied Building Metal Industries, Inc. and representing the Companies (members of the Association) and all other Employers with whom the Union has collective bargaining agreements, which monies shall be applied by said Board of Trustees to a Pension Fund created under an Agreement and Declaration of Trust. Under the said Agreement and Declaration of Trust, the Board of Trustees are to provide for Pension Benefits in such manner and amounts as the Trustees may determine and establish such eligibility rules as they may determine. The plan of benefits adopted by the Trustees has heretofore been approved by the Bureau of Internal Revenue as a qualified plan.

Section 27. (Continued)

714

Commencing July 1, 1974, and continuing through June 30, 1975, the Company will pay to the said Trustees the sum of ten (10%) per cent of the weekly payroll of all employees who are covered by this collective bargaining agreement employed by the Company, to the said Board of Trustees.

(B) The Company shall make payments in full hereunder not later than the tenth (10th) day of each month following the month in which contributions are due.

SECTION 28

715

SICK LEAVE FUND

(A) Commencing July 1, 1973, and for the duration of this Agreement, the Company will pay two (2%) per cent of the weekly payroll of all employees who are covered by this collective bargaining agreement employed by said Company to a Joint Board of Trustees composed of an equal number of representatives named by the Union and an equal number of representatives named by Allied Building Metal Industries, Inc. representing the Companies (members of the Association) and all other Employers with whom the Union has collective bargaining agreements, which monies shall be applied by said Board of Trustees to a Sick Leave Fund created under an Agreement and Declaration of Trust dated December 3, 1962, presently in existence, and operated as the Iron Workers Local 455 Sick Leave Fund. Under the said Agreement and Declaration of Trust the Board of Trustees is to provide for Sick Leave Benefits in such manner and amount as the Trustees may determine and establish such eligibility rules as they may determine, which Sick Leave Benefits shall not exceed a maximum of five (5) days' sick leave at the prevailing rates of wages during any given year beginning July 1, 1973 and for the period of the duration of this Agreement to eligible participants and shall further provide that in the event an eligible participant during any given year beginning July 1, 1973, and for the period of the duration of this Agreement does not receive any Sick Leave Benefits or any part thereof during any

Section 28. (Continued)

716

given year, then such participant, if eligible, shall receive from the said Fund at the end of any year beginning July 1, 1973 and for the period of the duration of this Agreement, a sum of money not to exceed the maximum Sick Leave Benefits declared by the Trustees to be payable to eligible participants during any given year for the period of the duration of this Agreement.

(B) The Company shall make payments in full hereunder not later than the tenth (10th) day of each month following the month in which contributions are due.

SECTION 29.

717

APPRENTICE, TRAINING-UPGRADING TRUST FUND

(A) Commencing July 1, 1973, and for the duration of this Agreement, the Company will pay the sum of two (\$.02) cents per hour for each straight time hour of pay paid to each of the employees covered by this Agreement, and an amount proportionate thereto for each premium hour paid -- e.g., three (\$.03) cents for each time and one-half hour paid and four (\$.04) cents for each double time hour paid, etc., to a Joint Board of Trustees composed of an equal number of representatives from and named by the Union and an equal number of representatives named by Allied Building Metal Industries, Inc. and representing the companies (members of the Association) and all other Employers with whom the Union has collective bargaining agreements. The contributions shall be applied by the said Board of Trustees to an apprenticeship, training and upgrading Fund created under an appropriate Agreement and Declaration of Trust and operated as "Local 455 Apprenticeship, Training-Upgrading Trust Fund", and for the organization and administration of the Fund. The Fund, including its plan of benefits and/or programs, shall be established in conformity with all requirements of law and shall be submitted to the Treasury Department for approval as a qualified plan. Effective July 1, 1973, and for the duration of this Agreement, the Joint Board of Trustees of the Fund shall assume all of the duties of the Joint Committee heretofore in existence.

(Section 29 continued on page 29-a)

718

Section 29. (Continued)

(B) Under the said Agreement and Declaration of Trust, the Joint Board of Trustees is to provide for the operation of programs to train apprentices and to upgrade or improve the skills of employees working under the jurisdiction of the Union for employers who are similarly obligated to contribute to this Fund, in such manner as the Trustees may determine and in accordance with procedures, rules and regulations to effectuate said programs.

(C) The Company shall make payments in full hereunder not later than the tenth (10th) day of each month following the month in which contributions are due.

SECTION 30

719

ANNUITY FUND

(A) Commencing July 1, 1973, the Company will pay one-half (1/2) of one (1%) per cent of the weekly payroll of all employees who are covered by this collective bargaining agreement, employed by the Company, to a Joint Board of Trustees composed of an equal number of representatives from and named by the Union, and an equal number of representatives named by Allied Building Metal Industries, Inc. and representing the companies (members of the Association) and all other Employers with whom the Union has collective bargaining agreements. The contributions shall be applied by the Board of Trustees to an Annuity (Supplemental-Retirement) Fund created under an appropriate Agreement and Declaration of Trust and operated as the "Iron Workers Local 455 Annuity (Supplemental-Retirement) Fund", and for the organization and administration of the Fund.

Commencing Uly 1, 1974, the Company will pay two (2%) per cent of its weekly payroll of all employees covered by this collective bargaining agreement to said Joint Board of Trustees.

(B) Under the Agreement and Declaration of Trust establishing the Iron Workers Local 455 Annuity (Supplemental-Retirement) Fund, the Joint Board of Trustees is to provide for annuity and supplemental retirement benefits in such manner and

(Section 30 continued on page 30-a)

Section 30. (Continued)

720

amounts as the Trustees may determine. The Fund, including its plan of benefits, shall be established in conformity with all requirements of law and shall be submitted to the Treasury Department for approval as a qualified plan, and any change in the plan of benefits adopted by the Trustees shall be subject to approval by the Treasury Department.

(C) The Company shall make payments in full hereunder not later than the tenth (10th) day of each month following the month in which contributions are due.

SECTION 31

721

SEVERANCE PAY

(A) Effective July 1, 1973 when a Company goes out of business (voluntary or involuntary) or moves its plant a distance of 50 miles or more from its then location, or sells its operation, or merges with another company at a location 50 miles or more from its then location, its employees who are terminated as a result thereof shall be entitled to one week's severance pay for each year of service with the Company. Service shall include the employee's total seniority as evidenced by the Company's then seniority rolls. However, no employee shall be entitled to any severance pay unless he has completed 1600 hours of work with the Company involved.

(B) The Company shall be responsible for making the above severance payments. It shall continue to be responsible for the full severance payments unless and until it has made contributions to the Local 455 Severance Pay Trust Fund provided for in Subsection (C) for a period of two (2) years.

(C) Commencing July 1, 1973 and for the duration of this Agreement, the Company will pay 1% of the weekly payroll of all employees who are covered by this collective bargaining agreement employed by the Company, to a Joint Board of Trustees composed of an equal number of representatives from and named by the Union and an equal number of representatives named by Allied Building

(Section 31 continued on page 31-a)

Metal Industries, Inc. and representing the companies (members of the Association) and all other Employers with whom the Union has collective bargaining agreements. The contributions shall be applied by the said Board of Trustees to a pooled severance pay fund to be created under an appropriate Agreement and Declaration of Trust to be operated as the "Local 455 Severance Pay Trust Fund," for the purpose of establishing and paying severance pay in accordance with rules and regulations to be adopted by the Trustees, and for the organization and administration of the Fund. The Fund and its rules and regulations shall be established in conformity with all requirements of law and shall be submitted to the Treasury Department for approval as a qualified plan. The above contribution of 1% is the only contribution which the Company is required to make to the Fund.

(D) The Company shall make payments in full hereunder not later than the tenth (10th) day of each month following the month in which contributions are due.

(E) After a company has made contributions to the Fund for a period of two (2) years, the Fund shall be liable to make severance payments where employees are entitled thereto, in an amount which is

(Section 31 continued on page 31-b)

equal to the Company's obligation but in no event greater than five (5) times the amount contributed by the Company to the Fund, and the Company shall be responsible to pay the balance of the severance pay due, if any, directly to the employees.

(F) The Trustees will formulate a rule which will modify or alleviate the obligations of a Company to continue payments to the Fund where in the opinion of the Trustees, the Company has made contributions to the Fund sufficient to secure its employees severance pay.

(G) A rule will be formulated covering the severance rights of employees who are eligible to apply for full pension benefits.

SECTION 32

724

TRUST FUND PROTECTION

(A) The Company shall furnish the Trustees of the Local 455 Welfare Fund, the Trustees of the Pension Fund for Iron Workers Local 455, the Trustees of the Iron Workers Local 455 Sick Leave Fund, the Trustees of the Local 455 Industry Vacation Trust Fund, the Trustees of the Local 455 Apprenticeship, Training-Upgrading Trust Fund, the Trustees of the Iron Workers Local 455 Annuity (Supplemental-Retirement) Fund and the Trustees of the Local 455 Severance Pay Trust Fund, provided for in Sections 26, 27, 28, 16, 29, 30 and 31 respectively, of this Agreement with all records pertaining to the names, job classifications, social security numbers and wage information for all employees covered by this Agreement, together with such other information as may be required for the proper and efficient administration of each of the said Funds.

(B) The Company agrees to make available to the accountants for each of the aforesaid Funds any and all records which, in the discretion of the Trustees of said Funds or any one Fund, may be required to determine whether the Company has made the contributions or has made the proper contributions it is obligated to make pursuant to this Agreement.

(Section 32 continued on page 32-a)

Section 32. (Continued)

725

(C) Failure of the Company to make payments in full by the tenth (10th) day of each month following the month in which the contributions are due to any of the aforesaid Funds, as specified in Sections 26, 27, 28, 16, 29, 30 and 31 of this Agreement, shall constitute a breach of this Agreement and, upon ten (10) days' written notice to the Company, the Union, notwithstanding anything to the contrary contained in this Agreement, shall have the right at any time or times thereafter to strike and remove its members from the plant of such Company until the Company pays the full amount of all moneys then due the Fund(s) involved and also pays the employees who are on strike their regular rate of pay for all time lost during any such strike. Once a Company has received such a ten (10) day notice, the right of the Union to withdraw its members without loss of pay continues for all subsequent delinquencies without requiring that any further notice be given. Any Company which becomes delinquent with payments, as hereinabove provided, shall be required to post bond to secure future payments of such Company to the Funds.

(D) In the event a dispute arises in connection with failure of the Company to make the required payments to any of the Funds, as provided for in this Section, and in the event request is made by the Union that such dispute be submitted to arbitration, the dispute shall be submitted, to Jerome J. Lande, 292 Madison

[Section 32 continued on page 32-b)

Section 32. (Continued)

726

Avenue, New York, N.Y. 10017, for determination and decision, instead of to the American Arbitration Association, notwithstanding the provisions of Section 10 of this Agreement. If for any reason Jerome J. Lande is incapacitated or for any other reason unable to act, the Trustees of the Funds shall select a substitute arbitrator. The decision rendered by the designated arbitrator shall be final and binding on the Company and the Union. Should such decision sustain the Union's position, such decision shall contain a directive that the Company pay all collection expenses, including reasonable attorney fees, arbitration costs, and Court costs and other costs, if any, and in addition thereto, interest in the sum of seven and one-half (7-1/2%) per cent of the payments due to said Funds, which amount shall be paid to the Trustees of said Funds.

(E) Resort to a remedy under this Agreement or under the Agreements and Declarations of Trust for the collection of contributions due the Funds or any one Fund, shall not be deemed a waiver of the right to resort to any other remedy provided therein or by law. Resort to one remedy at one time shall not be deemed a waiver of the right to resort to others at a future or subsequent time.

SECTION 33

727

TERMINATION

This agreement shall become effective as of the _____ day of _____, 19____ and shall remain in full force and effect until midnight June 30, 19____; and unless written notice of a desire for change therein or to terminate the same be given by either party to the other at least sixty (60) days and not more than ninety (90) days prior to such expiration date, it shall continue in effect for an additional year thereafter. In the same manner, this agreement shall remain in effect from year to year thereafter, subject, however, to the right of each party to terminate it at the expiration of any such year by giving notice, in writing, to the other party at least sixty (60) days and not more than ninety (90) days prior to the expiration of such year. Should notice of termination be served, or notice of a desire for change therein be served by either party, it is agreed that a conference shall be held on the first Tuesday in May of the year such notice is served, unless some other date is mutually agreed upon.

(Section 33 continued on page 33-a)

Section 33. (Continued)

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IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this _____ day of _____, 19 ____, in the City of New York.

SHOPMEN'S LOCAL UNION NO. 455

By _____ President

By _____ Recording Secretary

APPROVED AS TO FORM:

INTERNATIONAL ASSOCIATION OF BRIDGE,
STRUCTURAL AND ORNAMENTAL IRON WORKERS

By _____
(Official authorized to sign)

(Title)

(Name of Company)

By _____
(Person authorized to sign)

Milgo Industrial Inc.

729

520 MORGAN AVENUE
BROOKLYN 22, N. Y.

EVERGREEN 8-4363-4393

August 23, 1974

Mr. William Colavito
Shopmen's Local Union No. 455
853 Broadway
N.Y. N.Y. 10003

Dear Bill,

The holidays we observe are as follows:

New Year's Day
Washington's Birthday
Lincoln's Birthday
Memorial Day
July 4th
Labor Day
Columbus Day
Veteran's Day
Election Day $\frac{1}{2}$
Thanksgiving Day
Christmas Day

Very truly yours,

Milgo Industrial Inc.

Bruce J. Gitlin
Bruce J. Gitlin

Date Recd. _____

By _____

Received _____

In Reply, Please Refer to _____

At _____

cc: _____

730

JACKSON, LEWIS, SCHNITZLER & KRUPMAN

ATTORNEYS AT LAW
261 MADISON AVENUE
NEW YORK, N. Y. 10016

(212) 697-8200

LOUIS JACKSON
ROBERT LEWIS
THOMAS P. SCHNITZLER
WILLIAM A. KRUPMAN
NEIL M. FRANK
PATRICK L. VACCARO
DAVID M. TOLMACH
MARTIN F. PATSON
VICTOR SCHACHTER

G. HARRISON DABBY
MELVIN S. KATZMAN
ROGER S. KAPLAN
ARTHUR R. KAUFMAN
DAVID I. KREITMAN
PEGGY L. BRADEN
PHILIP S. MORTENSEN
ROBERT J. GIOVANNETTI
GREGORY I. RASIN
JOSEPH F. LEONARD
STEPHEN P. HORNER

February 3, 1975

Mr. William Colavito
President
Shopmen's Local Union No. 455
853 Broadway
New York, New York 10003

Re: Milgo Industrial Inc.

Dear Bill:

This will confirm our telephone conversation of today. Although Bruce Gitlin will be out-of-town until February 18th, we will go ahead with the agreed meeting date scheduled for February 14th at 1:00 P.M. at my office.

During our phone conversation, you questioned whether the Employer had made an economic offer. It is my understanding that the Employer had offered the following economic package:

- (1) 25¢ per hour increase.
- (2) Blue Cross/Blue Shield after one (1) year of service.
- (3) An additional week's paid vacation after ten (10) years of service.

The above benefits would become effective upon the signing of the contract.

If you should have any questions, please don't hesitate to call.

Sincerely,

JACKSON, LEWIS, SCHNITZLER & KRUPMAN

David
David M. Tolmach

DMT/pc

MILGO

731

David M. Tolmach
c/o Jackson, Lewis, Schnitzler & Krupman,
261 Madison Avenue,
New York, N.Y. 10016

8/12/75

Re: MILGO INDUSTRIES

Dear Sir:

Three weeks have passed since you called off our scheduled meeting. Despite the fact that we have made a number of phone calls, you have failed to respond.

Please call to arrange for a meeting.

Very truly yours,

John Zito

JZ/rm
oefu:153

GCD
In the matter of _____
Date _____ Witness _____ Reporter AK
No. Pages _____

MILGO - file

732

JACKSON, LEWIS, SCHNITZLER & KRUPMAN

LOUIS JACKSON
ROBERT LEWIS
THOMAS P. SCHNITZLER
WILLIAM A. KRUPMAN
NEIL M. FRANK
PATRICK L. VACCARO
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ROBERT J. GIOVANNETTI
GREGORY I. RASIN
STEPHEN P. HORNER
JOEL L. FINGER
GARY B. YOUNG
MICHAEL R. COOPER
LEWIS H. SILVERMAN
GLENN M. RICKLES
PETER A. SCHNEIDER
JAMES R. WILLIAMS

August 18, 1975

Mr. John Zito
Financial Secretary-Treasurer
Shopmen's Local Union No. 455
853 Broadway
New York, New York 10003

Re: Milgo Industrial, Inc.

Dear John:

Due to a heavy case load, I will not be able to meet with you and Bill until September 3rd. Please let me know what time would be most convenient for the meeting on this date.

Best regards.

Sincerely,

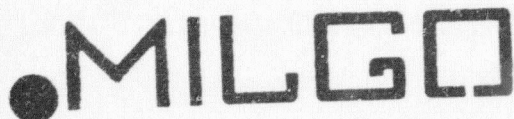
JACKSON, LEWIS, SCHNITZLER & KRUPMAN

David

David M. Tolmach

DMT/pc

NATIONAL LABOR RELATIONS BOARD
Case No. _____ OFFICIAL FILE NO. GC9
Disposition {
In the matter of _____
Date _____ Witness _____ Reporter
No. Pages _____



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INDUSTRIAL INC. 520-28 MORGAN AVENUE • BROOKLYN, NEW YORK 11222 • EV 8-6476

September 25, 1975

Mr. William Colavito
President
Shopman's Local Union # 455
853 Broadway
New York, New York 10003

Enclosed is a list of employees major job work.

Rocco Lospinuso	-	Leadman, layout, shear operator, punch operator, press operator
Bernard Zeichner	-	" " welder, polisher, maintenance, mechanic
Pat Salva	-	" " layout, model maker, mechanic
Bill Sogohr	-	welder, polisher, maintenance, press operator, mechanic
Lino Mussi	-	" " " "
Carmelo Foti	-	" " " "
Cattano Baldassare	-	" " " "
Jose Touset	-	set up, press operator, punch operator
Paul Mussi	-	" " forklift operator, shear operator
Jean J. Doricent	-	press assistant, forklift operator, shear assistant
Jean Klebert	-	" " " "
Ivan Villegas	-	set up, layout, shear operator, press operator, punch operator
Mariano Roman	-	shear operator, forklift operator, press assistant
John Ghegliu	-	shear assistant, press assistant

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✓
✓

JK

MILGO PENSION PLAN

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This AGREEMENT between MILGO INDUSTRIAL INC., a domestic corporation having its principal place of business at 520 Morgan Avenue, Brooklyn, New York, hereinafter referred to as "Milgo" and MAC GITLIN and BRUCE GITLIN, as Trustees of the pension plan hereby created and hereinafter referred to as "Trustees";

ARTICLE ONE

Definitions

1. As used in this instrument, the following terms shall have the meanings hereinafter set forth:

- a - "Company" shall mean MILGO INDUSTRIAL INC.
- b - "Associated Company" shall mean any other corporation, partnership, or sole proprietorship which becomes a contributing employer in accordance with the terms hereinafter set forth;
- c - "Board" shall mean the Board of Directors of the Company, or of any Associated Company where required by the context;
- d - "Fund" shall mean the trust funds created in accordance herewith;
- e - "Trust" shall mean the MILGO INDUSTRIAL PENSION PLAN;
- f - "Employee" shall mean any person employed by the Company or any Associated Company from whose compensation a deduction is made for withholding taxes under the terms of the Internal Revenue Code or whose compensation is subject to Social Security Taxes, in whole or in part;
- g - "Participants" or "Participating Employees" shall mean any Employees of the Company or any Associated Company participating in the MILGO INDUSTRIAL PENSION PLAN, created in

accordance herewith; also included are employees upon whose life a contract is issued and remains in force and who themselves remain qualified;

- h - "Compensation" shall mean the total amount of salary or wages paid and/or accrued to or for an Employee for his work, labor, or services during the entire year for which such Compensation is being computed, exclusive of payments made for his benefit under the terms of this Plan, any other plan of deferred compensation, or under the terms of any group or other life insurance policy paid for in whole or in part by the Company or by any Associated Company bonus, overtime payment, and commission;
- i - "Trustees" shall mean the persons or person or corporation appointed and acting as trustees of the MILGO INDUSTRIAL PENSION PLAN;
- j - "Taxable Year" shall mean the twelve (12) month period, or such shorter period, as shall be chosen by the Company or any Associated Company to report its net annual income for purposes of Federal Income Taxes;
- k - "Normal Retirement Date" shall mean the first day of the month after a Participant shall have reached his sixty-fifth birthday;
- l - "Beneficiaries", those persons designated in the contracts of insurance to be issued hereunder as the persons to receive any benefits thereof, payable upon the death of the Participant, including contingent beneficiaries. It also shall mean any person or persons entitled to receive any amount under this Plan as a benefit payable out of the part or portion of the contributions made by the Employer to the Trustees

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and not applied to the payment of insurance premiums;

- m - The effective date of this Plan and Trust shall be July 1, 1966;
- n - The anniversary date of this Plan and Trust shall be June 30, 1967 and June 30th of each year thereafter;
- o - "Permanent and Regular Employee" shall mean all employees of the Employer, including those on leave of absence excluding, however, those whose customary employment is for not more than twenty (20) hours in any one week and not more than five (5) months in any calendar year.
- p - "Continuous Service" means uninterrupted active service as an Employee with the Employer, and the same shall not be deemed to have been interrupted by any leave of absence granted, prolonged illness, service in the ^{and} Armed Forces of the United States of America/^{and} for the period of any disability suffered by such Employee in the course of his employment;
- q - "Insurer" means any legal reserve life insurance company licensed to do business in the State of New York;
- r - "Leave of Absence" shall mean any absence from employment not exceeding two (2) years which is authorized by the Employer, including but not limited to absence as a result of sickness or disability of a character for which the Employee is not receiving pension payments under this Plan; Absence of the Employee by reason of his or her service in the Armed Forces of the United States of America, in time of national emergency as declared by Congress, provided the Employee returns to his job within ninety (90) days of his discharge from the Service.
- s - "Monthly Compensation" shall mean one-twelfth (1/12th) of the annual compensation.

- t - "Normal Retirement Date", means the anniversary date nearest the participant's sixty-fifth birthday or the tenth anniversary of his date of participation, whichever is later;
- u - "Plan" and "Trust" means the provisions set forth in this Agreement as well as any and all amendments and supplements thereto;
- v - The masculine gender whenever used herein, shall be deemed to include the feminine, the singular shall include the plural and the plural shall include the singular.
- w - Employer shall be read to include Biltwell Auto Body Company, Inc. and Milco Industrial Company, predecessors.

ARTICLE TWO

Eligibility for Participation

1. All Employees in the employ of the Employer on the effective date shall be eligible to participate in this Plan immediately, provided they have reached their twenty-fifth (25th) birthday and have not passed their sixtieth (60th) birthday.
2. Any Employee employed after the effective date shall be eligible to apply to the Trustees to participate in this Plan on the anniversary date next succeeding his employment provided he has reached his twenty-fifth (25th) birthday and not passed his sixtieth (60th) birthday, and be continuously in the service of the Employer for a period of at least three (3) years.

ARTICLE THREE

Participation Procedure

1. Before becoming a Participant or obtaining an increase in benefits, an Employee must first sign the necessary application for the Contract, correctly giving such information and evidence of insurability as the Insurer may require. The signature of the Employee to the application shall constitute his acceptance of the terms of this Trust, and shall also constitute his agreement that the benefits provided by the Contract applied for are correct and in accord with what he is entitled to hereunder

2. An Employee, otherwise eligible, shall not be a Participant until his Contract has been actually issued by the Insurer, paid for and placed in force. He shall then become a Participant as of the date of such Contract, and to the extent thereof. However, if any eligible employee shall die after having complied with all the requirements for participation and before a policy shall be in force on his life, any employer contribution held by the Trustee to pay the initial premium on the policy shall be paid to the Beneficiary designated in his application for a Contract or in the absence of such designation to the estate of the deceased Employee.
3. At least thirty (30) days before an Employee shall be first eligible to become a Participant of this Plan or be eligible for an increase in benefits, he shall be so notified by the Employer and be requested to complete the necessary application for the Contract as required in Paragraph 1. In the event that the Trustee does not receive from the Employee, the completed forms within thirty (30) days of the date on which he is eligible, he shall be deemed to have elected not to participate on such date. He may elect to participate on any future anniversary date provided he is so eligible under Article Two.

ARTICLE FOUR

Retirement Benefits

1. The monthly retirement income to be provided on the Normal Retirement Date of each Participant, computed as of the Anniversary Date on which he first becomes eligible for participation, shall be equal to $33\frac{1}{3}\%$ of his Monthly Compensation in excess of \$400; provided, however, that such amount of income shall only be applicable to the Participants who would complete fifteen (15) years of service with the Employer at Normal Retirement Date. In the event a Participant would have at Normal Retirement Date less than fifteen (15) years of service, his monthly retirement income shall be reduced by $\frac{1}{15}$ th for each year of service less than fifteen (15). For the purpose of computing the length of service required by this paragraph, the service rendered by the Employee for the predecessor of the Employer, shall be included.
2. Minimum. No Participant shall be entitled to a retirement income of less than \$20.00 per month.

3. On each anniversary of this Agreement, but not less than five (5) years prior to the Participant's Normal Retirement Date, the benefits of any Participant, hereunder, who has received an increase or decrease in his Monthly Compensation since the preceding anniversary of the Agreement shall be recomputed on the basis of his Monthly Compensation at the time of the recomputation. If the amount of the increase or decrease in monthly retirement income to which the Participant would be entitled in accordance with the recomputation would be less than \$10.00 per month, no account shall be taken of such increase or decrease. However, no Participant shall be entitled to receive a monthly retirement income at Normal Retirement Date which would be greater than that provided by his basic monthly compensation averaged over the five highest years of participation. In the case of an increase the Trustee shall purchase the necessary additional Contract from the Insurer. In the case of a decrease, the aggregate amount of the contracts on the life of the Participant shall be reduced either by reducing an existing contract, or by surrendering for its cash value an entire existing contract, or by a combination of these, as the amount of the decrease may require. However, the Participant shall have the right to purchase such excess coverage by paying the cash surrender value thereof to the Trustee within thirty (30) days following the Anniversary Date as of which the decrease in retirement benefits shall become effective, provided such excess coverage can, in accordance with the rules of the Insurer, be issued as a separate contract or contracts.
4. In the event of an increase, as provided above, the contributions of the Employer shall be increased sufficiently to cover the cost of any such additional contract and to maintain the Auxiliary Fund on an actuarially sound basis.
5. All retirement benefits resulting from the application of formulas provided for in the Article shall be rounded to the nearest dollar. The monthly pension to the Participant, commencing on his Normal Retirement Date, shall be payable for THE LIFETIME OF THE PARTICIPANT.
6. Any changes required by the provisions of this Article shall likewise be reflected in the Auxiliary Fund provided hereinafter.
7. In the event that a Participant is totally and permanently disabled before his Normal Retirement Date, as determined to the satisfaction of the Employer, based on competent medical evidence, so that he is no longer able to continue in the service of the Employer, such Participant shall be retired immediately, on an actuarially reduced retirement income computed on the basis of the cash values of any Contracts then outstanding on his life under the terms of this Trust, together with the then current values of his share, if any, in the Auxiliary Fund, including interest thereon as of the Anniversary Date next preceding the date of his retirement.

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8. With the approval of the Employer the employment of a Participant may be continued after his Normal Retirement Date. The Trustee shall complete with the Insurer arrangements for the deferment of the Participant's retirement income. In such event, this income will be increased in accordance with the rules of the Insurer.

ARTICLE V

Description of Contracts - Death Benefits

1. For an Employee who can satisfy the Insurer as to his insurability, a Contract will be issued on his life providing a death benefit of 100 times the amount of monthly pension which the Employee is entitled to receive. The Contract shall further provide for level annual premiums payable to Normal Retirement Date and the right to convert the Contract to one which shall provide the required monthly retirement income. The downward revision provided in Article Four relating to the reduction of the monthly retirement income by one-fifteenth (1/15th) for each year of service less than 15, shall not apply to reduce the face amount of the death benefit provided in the contract.
2. For an employee who is found by the Insurer to be insurable only at substandard rates in excess of 200% mortality, the Contract shall in all respects be similar to the Contract described in the preceding section, if the Employee, in his sole discretion, irrevocably agrees, on the date of the Contract and for the duration of the Contract to pay the additional premiums required to obtain the full amount of the death benefits as provided in paragraph 1 of this Article, otherwise a Contract shall be issued as in paragraph 3 below.
3. For an Employee, who is uninsurable or who elects not to pay the additional premium under paragraph 2, the Contract issued shall be a Retirement Annuity with a death benefit of the greater of the return of premiums or the cash value. The Retirement Annuity shall be of such amount that can be purchased for an annual premium equal to the sum that would have been used to provide a Contract as described in Paragraph 1 above were the Participant insurable.
4. In no event, however, will the death benefit be less than the cash value of the contracts on the participant's life plus the participant share of the auxiliary fund on the date of death. If such sum exceeds the death benefit of the Contract the Trustee will pay such excess from the Participant's share of the auxiliary fund to the beneficiary named in the contract.

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ARTICLE VI

Application for and Control of Contracts

1. All Contracts shall be applied for by the Trustee and shall be between the Insurer and the Trustee. If the Contract provided for in the previous Article shall not be available, the Trustee shall select such other contract as shall come closest to the requirements set forth in such Article. All Contracts shall contain the same or similar basic options if obtainable from the Insurer.
2. The Insurer shall deliver such Contracts to the Trustee who shall hold them for the purposes of this Trust.
3. Any share of surplus, dividend, or refund prior to the Normal Retirement Date shall only be applied to the reduction of the premium then due or to become due in the next succeeding taxable year, except mortuary dividends which shall be used to increase the death benefit.

ARTICLE VII

Cost of Plan

1. All Costs of this Plan, including those necessary for the administration of this Trust, shall be borne by the Employer, except in those instances as provided under Article V, paragraph 2.
2. No further premiums or deposits to the Auxiliary Fund on behalf of an employee shall be due or payable following his Normal Retirement Date or the Date on which he actually terminates his service or retires, whichever shall be earlier.
3. Upon receipt of notice from the Trustee that an application for a Contract is ready for presentation to the Insurer, the Employer agrees to deliver to the Trustee the full first annual premium thereof. The Trustee shall either pay over such amount to the Insurer at the time of presentation of the application or, if not accepted by the Insurer at such time, such amount shall be held by it for the account of the Employer until the Contract has been issued, to be then used to pay the premiums thereon. In addition the Employer agrees to pay to the Trustee as of the issue date of each Contract the amount certified by the Trustee or Insurer as the annual contribution to the Auxiliary Fund hereinafter provided for.
4. Subject to the right reserved in the Trust to suspend premiums, the Employer agrees that, prior to the Anniversary Date, it will pay to or make available to the Trustee sufficient funds to pay (1) the annual

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2. On such termination of employment, he shall be vested in any contract issued on his life and in his share of the Auxiliary Fund in accordance with the following table:

<u>Years of Participation in Plan</u>	<u>Percentage of Cash Value of Contracts and his share of the Auxiliary Fund Vested</u>
less than 3 yrs.	0
3 years but less than 4 yrs.	20%
4 years but less than 5 yrs.	40%
5 years but less than 6 yrs.	50%
6 years but less than 7 yrs.	60%
7 years but less than 8 yrs.	70%
8 years but less than 9 yrs.	80%
9 years but less than 10 yrs.	90%
10 yrs. or more	100%

3. If such termination of employment shall be due to the Participant's proven dishonesty or the commission of a felony regardless of his length of service, he shall forfeit any vested rights as set forth in the preceding paragraph.
4. A leave of absence under required Military Service or as authorized by the Employer provided Employees in similar circumstances are similarly treated, shall not be construed as termination of employment, provided the employee returns to the service of the Employer on or prior to the expiration date of such leave or 90 days if discharged from Military Service. If the Employer does not return to the employment of the Employer within this period, he shall be deemed to have terminated his employment when the leave of absence became effective. The trustees shall take appropriate action to recover for the Trust any values created by contributions paid while the Employee was on leave.
5. In the event of the termination of employment of a Participant and his subsequent rehiring, the benefits to be provided for him under Article IV shall be reduced by the amount of benefit which would have been provided had the values which were released to him upon his termination of employment, as provided in this Article, been retained in the trust as a paid-up benefit.
6. Any forfeitures as a result of this Article shall be used to reduce the next succeeding year's cost of the Plan to the Employer.

ARTICLE X

Beneficiary and Settlement

1. The Participant may designate, in a writing delivered to the Trustee, or in his original application to the Insurer, his selection of a Beneficiary and the method

premiums on such Contracts that are due to the extent that the Trustee has not sufficient other funds for such purpose, and (2) the amount certified by the Trustee or Insurer as the annual contribution to the Auxiliary Fund. The Trustee shall not be obliged to pay premiums on any contract unless funds for that purpose are received from the Employer.

5. All contributions to the Trust shall be irrecoverable by the Employer. No part of the Trust corpus of income may be used for, or diverted to, purposes other than for the exclusive benefit of the Participants or their Beneficiaries, except that any balance remaining at the termination of the Trust due solely to an erroneous actuarial computation, will become the property of the Employer.

ARTICLE VIII

Retirement

1. At a Participant's Normal Retirement Date, the Trustee shall take any necessary action to exchange the Contract issued on his behalf or so much of it as the Trustee has funds for, so that he will receive the required retirement income payments under this Plan directly from the Insurer.
2. At any time before the Insurer makes the first income payment to the Participant, the Trustee shall take such steps as may be necessary to provide for any change in the basis upon which such income payments shall be made or any change in the disposition of the value of a Contract upon the Normal Retirement Date, as the Trustee shall determine, including but not limited to the exercise of any option except the interest only option, offered by the Insurer. In no event, however, shall the Trustee elect any optional method of distribution contained in the Contract which would provide that the Participant should have all or a part of his interest in the plan which would otherwise become available to him during his lifetime paid only to his beneficiary after his demise.
3. After a Participant's retirement, and after the Trustee shall have converted his Contracts according to paragraph (1) of this Article, all rights of a Participant under this Trust shall cease, except those accorded him by the exchanged contracts issued for his benefit.

ARTICLE IX

Termination of Employment and Vesting

1. If a Participant shall cease to be an Employee for any cause except death or retirement, his interest and rights under this Trust shall be limited to those contained in this Article subject to Article XII Paragraph 4.

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of settlement. This shall also apply to any later changes in connection therewith.

2. Upon the receipt of proof of the death of a Participant, satisfactory to the Insurer, the Trustee shall deliver the Contract or Contracts to the Insurer, together with such proof of death, requesting the Insurer to make payment to the Beneficiary in accordance with the provisions, including any mode of settlement, then effective on the Contract. Upon death of a Participant, neither he, his estate, nor any Beneficiary claiming through him, shall have any rights under this Trust, except those accorded by any Contracts issued on his life for his benefit and in force at the time of such death, and only to the extent therein indicated.
3. No change of Beneficiary or of election of mode of settlement shall be deemed effective until the application thereof has been duly approved by the Insurer, and the necessary change made effective as required by the Contract or the Insurer. No right shall accrue to anyone, whether against the Trustee, the Employer or the Insurer, because of any delay in effecting a proposed change and the intervening death of the Participant.

ARTICLE XI

Auxiliary Fund

1. On the effective date of this Trust, and on each subsequent Anniversary Date, the Trustee shall certify to the Employer the amount of the contribution to the Auxiliary Fund in order that the required amount will be accumulated in the Fund to convert Contracts held under the Trust to provide the required monthly retirement income under this Plan for each Participant on his Normal Retirement Date.
2. In determining the amount for deposit in the Auxiliary Fund, the Trustee may accept the actuarial computations of the Insurer, or the Trustee may make or have made by a competent Actuary such computations assuming such interest rates and such discounts for probable mortality or turnover of Participants as it deems prudent and which would be acceptable to the Director of Internal Revenue.
3. The Trustee shall have the power to invest and reinvest any or all funds in the Auxiliary Fund in securities or other property of any kind, whether or not they are legal for the investment of Trust Funds, including but not limited to stocks, bonds, debentures or other evidences of indebtedness issued by the Employer, provided any such investment shall be at all times maintained as part of the Auxiliary Fund and held separate and apart from all other property of the Trustee.

The Trustee, at the request of the Employer, may deposit all or part of the funds with the Insurer at a guaranteed rate of interest.

4. No Participant, either upon death, retirement or termination of employment before his Normal Retirement Date, shall have any interest in the Auxiliary Fund, except as herein provided in Article IV, paragraph 7, Article V, paragraph 4, Article XII, paragraph 1, and Article XII, paragraph 3.
5. A Participant's share of the Auxiliary Fund for the purpose of Article IV, paragraph 7, Article V, paragraph 4, Article XII, paragraph 2 and Article XII, paragraph 3 shall be determined using the same tables of mortality, interest and turnover, adopted by the Trustee and agreed to by the Director of Internal Revenue, used in calculating the deposits to the Auxiliary Fund and shall bear the same ratio to the value of the Auxiliary Fund as the accumulated amount of the deposits on behalf of such Participant on the Anniversary Date just preceding the date of his retirement or termination bears to the accumulated deposits of all Participants in the Plan. Such accumulation shall be on the same actuarial basis used in calculating the deposit. In determining a Participant's share the Trustee may accept the computation of the Insurer or may make such computation himself or have them made by a competent Actuary in his sole discretion. The result of such computation acceptable to the Trustee shall be final and binding on the Participant.

ARTICLE XII

Termination of Agreement

1. The Employer reserves the right at any time to suspend temporarily or permanently its contributions to the Trust, or to reduce its contributions thereto. If any reduction is made, the reduction shall apply on a pro-rata basis to all Participants for whom there are outstanding Contracts on which premiums are being paid. Upon the permanent suspension of such contributions or their suspension for a period of more than three consecutive years, the Trust shall terminate as provided below. In the event the Trust is terminated at a time when there is in effect a temporary suspension of contributions, as herein provided, then no Participant who was such at the time the suspension commenced shall be deprived of his right to have vested in him the same percentage of the total assets of the

Trust as would have vested in him if the Trust had been terminated at the time the suspension first commenced.

2. If, because of any such reduction in the Employer's contributions, the Trustee has not enough funds to pay the premiums or other required contributions, then the Trustee shall take any action whatever with respect to the Contracts, or the Auxiliary Fund which will most nearly, in his opinion, carry out the purpose of this Trust under the changed circumstances. Without being limited to such alternatives, the Trustee shall have the right to use the Auxiliary Fund to pay the premiums on the Contracts, reduce the amount of the Contracts, to permit any Contract to become Paid-Up, to borrow money on the security of Contracts for the purpose of paying premiums on the same or on any other Contracts on the same life, to surrender any Contract on a Participant's life and use the cash value obtained for the purpose of paying premiums on another Contract on the same life though in reduced amounts and with different provisions. In so doing, the Trustee shall use due care to avoid discrimination among the Participants. Whatever action is decided upon hereunder, shall apply uniformly to all Participants; any loans on contracts shall be pro-rata according to premiums due for all Participants, and in no event shall any moneys obtained as a result of loans on such Contracts be used for any purpose except the payment of premiums on the Contracts of the Participant on whose Contracts the loan was obtained. Any subsequent repayment of loans, in whole or in part, by the Employer upon any of such Contracts shall be on pro-rata basis according to premiums due, so that all Participants shall receive uniform treatment.
3. Upon termination of the trust each Participant shall be vested with all right, title, and interest in and to any Contract on his life except as provided below. The Auxiliary Fund will be liquidated and each Participant will receive his allocated share. The Trustee shall execute any and all documents necessary to accomplish this. Any other funds or assets of the Trust shall be distributed by the Trustee to those persons who are then Participants, in proportion to their respective interests at such time.
4. In the event that the plan is terminated prior to the tenth Anniversary Date thereof or at any time when full current costs have not been met, the contributions used for benefits for any one of the twenty-five (25) highest paid employees who first became a Participant on the effective date of this Trust and who are then Participant

and for whom a pension benefit provided by the Employer's contribution is \$1,000.00 per annum or over, shall not exceed whichever sum is greater,

a) \$20,000.000 , or

b) an amount equal to twenty (20%) percent of the first \$20,000.00 of his average salary for the preceding five (5) years, multiplied by the number of full years between the establishment and termination of this Trust. Any excess in such case shall be distributable equitably among the other Participants, whether in the form of cash or paid-up retirement benefits. In the event any of such twenty-five (25) highest paid Participants, as aforesaid, shall withdraw from the service of the Employer or from the Trust prior to the tenth anniversary date hereof, the Contributions which could have been used for benefits which he may receive shall likewise not exceed the amounts he would have received if the Trust were terminated at the time by the Employer as described above. Any excess remaining, in such event, shall be paid into the Auxiliary Fund.

ARTICLE XIII

Powers and Duties of Trustees

1. The Trustees, in addition to, and not in modification or limitation of all their common law and statutory authority, shall have the following duties in connection with the administration of this Trust, and the following powers with respect to all property, whether real or personal, which shall at any time, and from time to time, form part of the principal or income of this Trust:
 - a - To sell, convey, transfer, exchange, mortgage, pledge, lease (with or without option to purchase) or otherwise dispose of the same, without the approval of any court therefor obtained, and without any obligation upon any person dealing with the Trustees, to see to the application of any money or other property delivered to them;
 - b - To make repairs, alterations and improvements on or to any such property;
 - c - To lease, without application to any court or judge, any property for such term or terms as they may deem proper, whether for five years or for less or more than five years, and in connection therewith, to enter into all agreements and covenants that they may deem proper, relating to the property so leased or any improvements that may then or thereafter be erected thereon;

To keep any or all securities or other property in the name of some other person, partnership, or corporation, with a power of attorney for their transfer attached, or in their own names without disclosing their fiduciary capacity;

- a- To collect the principal and income of the Trust as the same shall become due and payable, and to give binding receipts therefor, and if at any time there shall be default in the payment of such principal or income, or any part thereof, to take action, whether by legal proceedings, compromise, or otherwise, as the Trustees, in their discretion, shall deem to be in the best interests of their Trust. The Trustees shall be under no obligation to make any legal action, as aforesaid, unless they shall have been first indemnified by the Company with respect to any expenses or losses to which they may be subjected through taking such action. Any property acquired by the Trustees under judicial sale or otherwise, in the enforcement or compromise of any such claim or claims shall be and become a part of the Trust Fund, and be dealt with as such by the Trustees;
- f- To vote, either in person or by proxy, any share of stock held as part of the assets of the Trust;
- g- Upon distribution, to allot in kind any personal property to the payment of the share of any Participating Employee. In such event, the property so distributed shall be valued at fair market value at the date of distribution. No distributee shall be compelled to accept more than his pro-rata share of such distribution in kind without his express consent in writing;
- h- To deal and make agreements with any corporation, partnership, individual, or other entity, including and not by way of limitation, the Company and any Associated Company and their affiliates and the validity of such dealings and agreements shall in no way be affected by the fact that any Trustee has been, is, or becomes a director, officer, stockholder, agent, or employee of such corporation, partnership, individual or other entity;
- i- To retain counsel (who may be of counsel to the Company or any Associated Company), accountants (who may be the accountants for the Company or any Associated Company), investment counsel, or others deemed needed by the Trustees.
- j- To do all acts deemed proper or necessary by them in furtherance of the purposes of this Trust.

2. The Trustees, and each of them, shall be free from all liability, joint or several, for their acts, omissions, or conduct of their duly constituted agents in the administration of the Trust herein embodied, and the Trust shall indemnify them and save them harmless from the effects and consequences of their acts, omissions and conduct in their official capacity, except to the extent that such effects and consequences shall result from their own willful misconduct. In the event the Trust Fund shall be insufficient to indemnify the Trustees under the terms of this paragraph, then the Company and the Associated Companies shall indemnify them for the balance thereof, in proportions to be determined among the Companies.
3. No Trustee hereunder shall be liable for any act or default of any other Trustee or predecessor Trustee, nor shall any Trustee be under any duty to examine the account of any predecessor Trustee or to enforce any responsibility in connection therewith.
4. Any Trustee may, with the approval of a majority of Trustees, act for the Trust, and his signature on any paper shall be deemed to be the signature of the Trustees acting jointly. In the case of any bank account held in the name of the Trust, the signature of any Trustee shall be sufficient for any check drawn upon such account.

ARTICLE XIV

Accounting

1. The Trustees shall, within four months after the close of each year, render an account of their administration of the Trust during the preceding year to the Board. The written approval of the Board of such accounting, or the failure to object thereto within sixty (60) days after the receipt thereof, shall, as to all matters embraced therein, be final and binding upon the Company, each Associated Company, and upon all persons who shall be thereafter become interested therein.

ARTICLE XV

Amendment of Plan and Trust

1. The Company shall have the right at any time, by an instrument in writing, delivered to the Trustees, to modify, alter, or amend this instrument in whole or in part; provided, however, that the duties, powers, and liabilities of the Trustees hereunder shall not be substantially increased without their written consent; and provided, further, that the amount which at the time of any such modification, alteration, or amendment, shall appear as a credit in the account of any employee participating in the plan embodied herein shall not be affected thereby; and provided, further,

that no such amendment shall have the effect of revesting the Company or in any Associated Company any part of the principal or income of the Trust. Nothing in this paragraph shall be so construed as to prevent the Company from making any amendment, retroactively, if necessary, in order to secure approval of this Plan and Trust as one which is exempt from taxation under the provisions of Sections 401 and 501 of the Internal Revenue Code.

2. Any corporation, which, by action of its Board of Directors, determines to become an Associated Company hereunder, may do so with the approval of the Company. Any sole proprietorship or partnership may similarly become an Associated Company hereunder with the approval of the Company. Such Associate Company must accept this instrument in its entirety with only such amendments as may be necessary to make such Associated Company a participating contributing employer under this Trust.

ARTICLE XVI

Resignation, Removal and Appointment of Trustees

1. Any Trustee may resign this Trust at any time by giving sixty (60) days written notice to the Board of his intention to do so. Upon such resignation becoming effective, the Trustee shall render to the Company an account of his proceedings as such Trustee since the date of his last accounting, if any, and shall transfer and assign all of his interest as Trustee to the remaining Trustees and his successor appointed pursuant to the terms of this agreement.
2. The Board may remove a Trustee at any time by notice in writing to such Trustee. The Board may add a Trustee or Trustees at any time. Any vacancy, or any addition, whether the same be occasioned by resignation, or removal, or otherwise, may be filled or made, as the case may be, by the Board, and the Trustee so appointed to fill any such vacancy shall have all the powers herein conferred upon the original Trustees. Any Trustee hereunder may, but need not be a stockholder, officer, employee, or director of the Company or any Associated Company.
3. All expenses of Administering the Trust shall be paid by the Company and the Associated Companies in proportions to be determined among them. The Trustees shall serve for a fee to be determined between the Trustees and the Company. Should the Company or any Associated Company fail to pay its share of any of the expenses of administering the Trust, then such expenses shall constitute a first lien against and shall be paid out of the Trust Fund.

ARTICLE SEVENTEEN

Dismissal of Employees

1. Nothing herein contained shall be deemed to give to any employee the right to be retained in the employ of the Company or any Associated Company, the Company hereby reserving the right for itself and for any Associated Company to discharge any employee at any time with or without cause, and any employee so discharged shall have only such rights or interests in this Trust as may be specifically provided for herein.

ARTICLE EIGHTEEN

Miscellaneous

2. Neither the Employer, nor the Trustee shall be responsible for the validity of any Contracts nor for the failure on the part of the Insurer to make payments provided by the Contracts, nor for the action of any person or persons which may render such Contracts null and void or unenforceable either in whole or in part. In case it becomes impossible for the Employer, or the Trustee to perform any act due to any restrictions or provision of any Contract, or imposed by the Insurer or any other person, then that act shall be performed which, in the discretion of the Trustee, most nearly carries out the intent and purpose of this Trust.
3. In any case in which the Employer, Trustee, or Insurer shall be directed to take any action upon the occurrence of any event, they shall be under no obligation to take such action, unless and until proper and satisfactory written notice of such occurrence shall have been received by them.
4. A certificate in writing from any officer of the Employer, or the Trustee as to the happening of any event shall constitute conclusive evidence thereof, and the Trustee shall be fully protected and discharged from all liability in accepting and relying upon such certificate.
5. Neither the Employer nor the Trustee shall incur any liability to any person or party in acting upon any notice, request, consent, letter, telegram or other paper or document believed by them or any of them to be genuine, and to have been signed or sent by the proper person.

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6. Neither the Employer nor the Trustee shall incur any liability for any loss or damage, except by reason of its own active negligence or willful default.
7. The Insurer shall not be deemed a party to this Trust.
8. Any corporation, business association or proprietorship may become a party hereto as an Employer on behalf of its Employees, in the manner and to the extent as provided in this Agreement.
9. Except that the Contract may provide that the payments thereunder on and after the Normal Retirement Date shall be paid to the Participant, any provisions of this Trust whereby the Participant is given any rights or duties in connection with a Contract, shall be constructed as rights to request or direct the Trustee to perform some act, and not as rights of the Participant in the Contract. Except for the provisions of the Contract whereby the income at retirement may be paid to the Participant, and whereby amounts payable at death are paid to the Beneficiaries named in accordance with Article X the Trust shall be the legal owner of all Contracts, and the Trustee shall exercise, on behalf of the Trust, all rights, options and benefits thereunder, including the right during the life of the Participant and before the Normal Retirement Date, to change the provisions to be then operative.

The signature of any one of the Trustees alone shall be adequate in connection with any application for, change to be made (including a change of beneficiary), any action to be taken, any right to be exercised or any payment to be made under any Contract. No Insurer shall make any inquiry regarding the authority of the Trustee to do any of the aforesaid, nor shall it be responsible to see to the distribution or application of any amount paid the Trustee, or any amount paid in accordance with the direction of the Trustee. In the event of any conflict between the provisions of this Article and any other provision of this instrument, the provisions of this Article shall govern and control.

10. Nothing contained in this Agreement shall be constructed as a contract of employment between the Employer and any Employee, nor shall it afford to an Employee a right to continued employment with the Employer.
11. This Trust Agreement shall be construed according to the laws of the State of New York, where it is made and where it shall be enforced.
12. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of all

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parties, present and future.

12. No benefits under the Agreement shall be subject in any manner to be anticipated, alienated, sold, transferred, assigned, pledged, encumbered or charged, and any attempt to so anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; nor shall any such benefits in any manner be liable for or subject to the debts, contracts, liabilities, engagements or torts of the person entitled to such benefits as herein provided for him.
14. This Agreement has been entered into for the exclusive benefit of the Participants and their Beneficiaries.
15. This Trust instrument is based upon the condition precedent that it shall be initially approved and qualified by Internal Revenue Service as meeting the requirements of the Federal Internal Revenue Code and Regulations issued thereunder with respect to Employees' Trust so as to permit the Employer to deduct for income tax purposes the amount of its contribution to the Trustee and so that such contributions will not be taxable to the Employees as income except for any "cost of insurance". Therefore, anything to the contrary notwithstanding, if such initial approval or qualification is denied, the Trustee, is directed to return all funds in their hands to the Employer after they have liquidated all contracts.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals or caused these presents to be signed by its proper corporate officers and caused its proper corporate seal to be hereto affixed the day and year first above written.

WITNESSES:

June 14 1967

MILGO INDUSTRIAL INC.

By:

President

Authorized Signature of Trustee

Authorized Signature of Trustee

Authorized Signature of Trustee

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Holidays

- New Year's Day
- Washington's Birthday
- Lincoln's Birthday
- Memorial Day
- July 4th
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving Day
- Christmas Day
- Election Day 1/2 day off

GC12
✓

In the matter of _____
Date _____

Salva
at 1971- 4.50 per hour up to 1974 no increase

<u>Line</u> <u>Mussi</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>
8.10	3.30 .30	3.60 .40	4.00 9/17 ²⁵ 4.25	4.40

<u>armelo</u> <u>Roli</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>
.75	3.25 .20	3.55	3.80	4.00

Locco
Loquendo 1971 - 1974 5.75 per hour no increase

<u>Miguel A.</u> <u>Hernandez</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>
4.25	3.25	3.55 8/8 ²⁵ 3.80	4.00 9/14 ²⁵ 4.25	4.50

756

Joe 1972 1973 1974
Tansey 4.30 4.50 4.90
.60 20 9/11-4.75 .15

Bernard Zuckner 1971 - 1974 5.62 per hour 9.00

Paul Mucci 1971 1972 1973 1974
1.75 2.00 2.50 3.25
8/8 - 3.00 9/4 - 3.50 .25 3.75

La Riviera 1974 - 3.00. 3/15 - 3.25.

Gabrielle Massius 1974 - 2.50.

Edwin Roldan 1974 - 2.75.

HEALTH + WELFARE

477 per 27 per

Blue Cross - Executive Indemnity Policy
 Blue Shield - For Employees of over 7 years
 Employment

VACATIONS - 1 WEEK AFTER 1 YEAR
 2 WEEKS AFTER 2 YEARS

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SECTION 1

BARGAINING UNIT

The following employees at the Employer's place of business located at 520 Morgan Avenue, Brooklyn, New York, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

This agreement shall be applicable to the
all production and maintenance employees employed by the Employer *to work done by each P.M. as in a unit in Co's shop* at its Brooklyn, New York, location, including leadmen, pattern and model makers, and the drivers, but excluding office clerical employees, guards and supervisors as defined in the Act.

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to work done by each P.M. as in a unit in Co's shop
Selection *Co proposal*
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Decision *employer*
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SECTION 3

RECOGNITION

The Company recognizes the Union as the sole and exclusive bargaining agency for the purposes of bargaining in respect to rates of pay, hours of work and conditions pertaining to employment for its employees in the bargaining unit as the term of "bargaining unit" is defined in Section _____, pursuant to Board certification dated January 20, 1972.

Review -
3-3-72

3-3-72
unions - 100% pay

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SECTION

MANAGEMENT RIGHTS

(A) The Company retains the exclusive right to manage the facility and to make any decisions affecting the business, whether or not specifically mentioned herein and whether or not heretofore exercised, including, but not limited, to location of operations, reasonable work method standards, types of equipment to be used or materials purchased or sold, and this exclusive right includes the right to hire and determine the number of employees in the facility or a department, including the number assigned to any particular work, to increase or decrease that number, to direct and assign their work, to establish new job classifications and job content and qualifications and wage rates heretofore, to determine the reasonable work performance levels and standards of performance of the employees, and to require the use of safety devices and equipment, to discipline, lay-off, discharge, suspend, transfer, promote and take any action considered necessary to establish and maintain efficiency and discipline.

(B) Any of the rights, power or authority the Company had when there was no agreement are retained by the Company and may be exercised without prior notice to and consultation with the Union, except those specifically abridged or modified by this Agreement and any supplementary agreement that may hereinafter be made.

(C) The Company shall have the right to post reasonable plant rules and regulations after discussion with the Union.

(D) This Section shall not abrogate or nullify any rights specifically provided for in this Agreement.

760

SECTION 6

HOURS OF WORK

Five (5) days, eight (8) hours per day, shall constitute a standard work week for regular full-time employees, but in no way shall this constitute a guarantee.

The regular starting time and quitting time of each employee may be changed by the Employer.

SECTION 7

OVERTIME PAY

(A) All work performed in excess of forty (40) hours in any one week.

(B) All work performed on Saturday or Sunday. (no work on S.T.)

(C) All work performed on any recognized holiday as provided in Section _____ of this Agreement. (not in addition to day's pay)

(D) Employees shall be required to work a reasonable amount of overtime, as requested.

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SECTION 9

REPORTING PAY AND/OR ALLOWED PAY

(A) Any employee ordered to report to work by an authorized Representative of the Company and who is not put to work, or who shall have appeared for work on a regular workday without previously having been informed by an authorized Representative of the Company not to report, shall, if able and willing to work, be paid for four (4) hours at the applicable rate for such day.

(B) Any employee injured at the Company's plant, who is sent to a doctor and returns to work during his or her regular working hours the same day, shall be paid by the Company the applicable wage rate for such time thereby lost on such day by such employee. Should an injured employee be admitted to a hospital or be instructed by the Company or the doctor to refrain from performing further work on the day such employee is injured, such employee shall receive the applicable - - hourly rate for the entire workday.

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get into safety net

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785

dispute is not settled in a manner satisfactory to the grieving party, within five (5) working days from Step C, the grieving party has the right and authority to submit such grievance or dispute to arbitration in the manner hereafter provided.

(E) Failure of the Union to process the grievance within the specified periods of time shall result in a forfeiture of said grievance.

(F) Grievance meetings shall not be scheduled during working time.

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SECTION 10

ARBITRATION PROCEDURE

In the event the grievance is not settled under the Grievance Procedure, the Union may, within ten (10) working days from date of receipt of the Employer's decision, at the last step of the Grievance Procedure, submit the grievance to arbitration, pursuant to the rules of the Federal Mediation and Conciliation Service.

(A) The Union may request the Federal Mediation and Conciliation Service to furnish it and the Employer with identical lists of persons eligible to serve as Arbitrators. Failure of the Union to make its request within the said ten (10) working days, shall result in a waiver of the claim.

(B) The parties may mutually designate the Arbitrator. If, however, within fifteen (15) working days from receipt of the original lists the parties shall fail to agree upon a single Arbitrator, either party may request the Federal Mediation and Conciliation Service to submit an additional panel. If, after the submission of a second panel, the parties fail to agree upon the designation, the Arbitrator shall be appointed by the Service.

(C) The Arbitrator may consider and decide only the particular grievance presented to him in a written stipulation by the Employer and the Union, and his decision shall be based solely upon an interpretation of the provisions of this Agreement. The Arbitrator shall not have the right to amend, take away, modify, add to, or change any of the provisions of this Agreement. In deciding the issue, the Arbitrator shall not consider the affect his award would have

upon employee morale, or whether employee tensions will be heightened or diminished. The Arbitrator's decision shall be final and binding upon the parties.

(D) The Arbitrator shall have the authority to order or deny reinstatement of an employee, with or without back pay, in whole or in part. Employees who have been discharged or suspended shall have the duty to seek work so as to mitigate the claim of back pay. Their failure to do so shall be considered by the Arbitrator adversely to the claim for back pay of such employees.

(E) The cost of arbitration, which shall include the fees and expenses of the Arbitrator, and an original of the transcript where mutually agreed upon, shall be borne equally by the parties. Each party shall pay any fees of its own representatives and witnesses for time lost, and the cost of the transcript where there is no mutual agreement to order it.

768

SECTION 11

NO-STRIKE CLAUSE

(A) During the life of this Agreement or any written extension hereof, the Union on behalf of its officers, agents and members, agrees that so long as this Agreement or any written extension hereof is in effect, there shall be no strikes, slow-downs, walk-outs, sit-downs, picketing, boycotts or any activities which interfere, directly or indirectly, with the Employer's operations or the sale of its products for any reason.

(B) Any employee who violates this provision shall be subject to disciplinary action, including discharge.

(C) A suit for damages alleging the Union's violation of paragraph (A) shall not be subject to the arbitration provision of this Agreement.

(D) A claim by the Company that the Union has violated paragraph (A), except as provided in paragraph (C) with respect to damages, may be submitted by the Employer to arbitration pursuant to the provisions of Section ____ (Arbitration Procedure) and the rules of the Federal Mediation and Conciliation Service. The grievance shall be submitted to arbitration within ten (10) working days of its occurrence. Failure to do so shall result in a waiver of the claim.

(E) In the event an employee is continued in employment after the termination of a strike in which he has participated in violation of this provision, he shall not be entitled to any accrued wages during the period of the strike, nor to

any fringe benefit contained in this Agreement which may have accrued for his benefit during the period of the strike, nor shall he, for the duration of the strike, accumulate seniority or length of service for any purpose under this Agreement.

(F) During the term of this Agreement, the Company agrees that it will not institute a lockout of its employees.

770

SECTION 12

PLANT VISITATION

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3-26-75

The Union's representative may visit the Company's premises at reasonable times for the purpose of investigating working conditions or facts relating to any grievance or conferring with the Company. The Union representative must ~~first~~ ^{advise} ~~call the factory~~ ^{manager} ~~for an appointment~~ ^{of his presence}. The Company will not unreasonably deny visitation privileges; and Such Union representative shall conduct himself so as not to ^{unduly} interfere with the work of the employees.

U. Time - present & absent notes p

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SECTION 12

SENIORITY

Seniority shall be defined for the purpose of this Agreement as the net credited service of the employee. Net credited service shall mean continuous employment in the Company beginning with the date and hour on which the employee began to work after last being hired, less deductions for leaves of absence, lay-off, illness and injury.

(B) (A) Seniority and ability shall be considered in case of recall. Seniority shall apply to a job only where ability to perform the required work and contribution to the over-all efficiency of the operation are equal with respect to two employees in the sole opinion of the Company. In determining "ability", the Company make take into consideration employees' work attitudes and habits, punctuality, attention, reasonably continuous presence on the job and careful workmanship.

(C) (B) An employee shall lose seniority and seniority shall be broken for any of the following reasons:

1. If the employee voluntarily resigns.
2. If the employee is discharged and not reinstated.
3. Failure to report to work after a layoff, within five (5) days from a written notice of recall sent by the Company to the employee at his last address of record on file with the Company.
4. Absence from work for a period of three (3) consecutive working days without notifying the Employer.
5. Failure to report to work at the expiration of a leave of absence pursuant to this Agreement.
6. Absence as a result of illness or accident for a period in excess of one (1) year, unless extended by agreement between the Union and the Company.

upto 6 mo - 6 mo
new 6 mo 1 yr.

772

7. Lay-off or leaves of absence in excess of the following periods of time:

30 days for employees having up to six (6) months service.

60 days for employees having from six (6) months to one (1) year.

180 days for employees having more than one (1) year of service.

11-4 (C) An employee whose seniority is lost for any of the reasons outlined in (B) above, shall be considered as a new employee if he is again employed by the Company. The failure of the Company to rehire said employee shall not be subject to the grievance and arbitration provisions of this Agreement.

176 P176 cannot say (D) In the event the employee is offered another job by the Company outside the bargaining unit and the employee accepts such job and leaves the bargaining unit, such employee loses all of his seniority rights under the terms of this Agreement after sixty (60) working days.

m (E) The Company has the right to reduce the length of the workweek instead of resorting to layoff in accordance with seniority.

no (F) It shall be the sole responsibility of the employee to keep the Company informed of his current address and to notify the Company at once, in writing, of any change of address.

(G) This Section shall not apply to lay-offs of two (2) weeks or less. In such cases, the Company's decision shall govern.

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SECTION 14

LEAVE OF ABSENCE

(A) Leaves of absence without pay shall be granted by the Company to any employee (except probationary employees) without prejudice to the employee's seniority or other rights. All approval of leaves of absence shall be made in writing which shall be signed by a designated representative of the Company and a copy given to the Shop Steward for the Union, copy of which shall be furnished the employee and the Union. Leaves of absence will be for a period of not more than thirty (30) days; however, it may be extended upon request by the employee, subject to the approval of such request in writing by the Company, signed by a designated representative of the Company and the Shop Steward, copies of which shall be furnished the employee and a copy mailed to the Union. Only one (1) employee shall be granted a leave of absence at any one time under this sub-section.

(B) Any employee employed by the Company who is elected or appointed to an official position with the Union, which requires that he or she discontinue employment with the Company in order to perform the duties of such position, shall be granted a leave of absence, in writing, signed by a designated representative of the Company, for the period of such position, including any renewals thereof.

Only one (1) employee shall be granted a leave of absence ^{under pay} at any one time under this Section. ^{But} If an employee has an official position with the Union, he shall be permitted time off to perform duties without pay ~~and only one employee at any one time under this Section.~~

(C) The Company shall give employees time off
✓with pay to secure a renewal of any license which is necessary
in connection with his work. The Company shall also pay for
the cost of such renewal.

(D) Obtaining ~~or seeking~~ ^{while on leave} other employment while on
leave will automatically terminate employment with the Company.

3.26 (E) An employee who, due to the death of his parents,
spouse, children, brother, sister, mother-in-law or father-in-
law, loses work scheduled for any day up to a maximum of three

(3) days (from the day of death) ~~through the day of burial, both~~
~~inclusive~~), shall be given leave for each lost scheduled work
day within such period with pay at the rate of eight (8) hours
straight time at his base rate for each day of such leave.

unhappy for
over leave?

*rule complete with
transferred to the new
company*

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SECTION 15

NO DISCRIMINATION

There shall be no coercion, intimidation, or discrimination on the part of either the Company or the Union, or their respective agents, officers, or members, against any employee employed at this plant for reasons of age, race, sex, color, religious belief, national origin, Union membership or non-membership, *maintain duty Fed. & State Laws.*

The amount of work a member of the Union may perform, shall not be restricted or interfered with by the Union or its officers or members.

776

SECTION 16

VACATIONS

(A) All employees who have been continuously employed for a period of the following shall receive:

1 year 1 week

2 years..... 2 weeks

M.C.
(B) In order to be eligible for vacation, an employee must be employed on the payroll during the two (2) weeks preceding the start of the vacation period. If an employee has been employed less than one (1) year, his vacation will be prorated based on the number of months the employee has been employed.

(C) A vacation schedule shall be posted in the plant not later than May 15th of each year.

M.C.
(D) A week's pay for vacation purposes, is defined as the average weekly pay, excluding overtime, an employee received based on the four (4) weeks immediately preceding the employee's vacation.

(E) An employee shall receive vacation pay during the week preceding his vacation.

(F) If a holiday occurs during the employee's vacation, the employee shall be entitled to holiday pay in addition to his vacation pay.

*Program
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Fund.
Vac. Notes
Vac. Period
Acceptance & Take.
Pro. Title*

Handwritten signature and initials

777

SECTION 17

BULLETIN BOARDS

The Union shall have assigned space on the Bulletin Boards for the posting of notices. All such notices shall have the approval of management before posting and such approval will not be unreasonably withheld. Such notices will be restricted to the following:

- (A) Notices of Union recreational and social affairs.
- (B) Notices of elections of officers of the Union, appointments, and results of Union elections and financial matters.
- (C) Notices of Union meetings.

778(a)

SECTION 22

PAY DAYS

The Company agrees to pay the employees on a regular stated pay day in each week by check at end of day.

When an employee is laid off or discharged, he shall be paid off immediately by check. The Company is required to install a time clock and time cards in order to keep proper record of employees' time worked. The Company must keep time cards and all other payroll records available in accordance with existing Wage-Hour Laws.

cash
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SECTION 23

SAVINGS CLAUSE

In the event that any provision of this Agreement shall at any time, be declared invalid by any court of competent jurisdiction or by any legislative enactment, neither such decision nor legislative enactment shall invalidate the entire Agreement, it being the express intention of the parties hereto that all other provisions not declared invalid, shall remain in full force and effect. In the event that any Federal or State statutes, enacted subsequent to the effective date of this Agreement, shall have the effect of invalidating or voiding any provision of this Agreement, the parties hereto shall meet solely for the purpose of negotiating with respect to the matters covered by the provision which may have been so declared invalid or void.

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SECTION ✓

REST PERIODS

There shall be one rest period of ten (10) minutes' duration, which shall be granted during the first half of each shift. Employees who work two (2) or more hours overtime shall be granted a fifteen (15) minutes rest period during t' overtime period. During each of the aforementioned rest periods ✓ each employee shall be paid the applicable hourly rate, and no work shall be performed during such periods.

ending of pay

781
SECTION 342

SCOPE OF BARGAINING

The Company and the Union acknowledge that during the negotiations which resulted in this Agreement, each party had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Company and the Union, for the term of this Agreement, each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter not specifically referred to or covered in this Agreement, including fringe benefits, even though such subject or matter may not have been within the knowledge or contemplation of the parties at the time they negotiated or signed this Agreement.

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SECTION 34

ALTERATION OF AGREEMENT

(A) No agreement, alteration, understanding or variation, waiver or modification of any of the terms or conditions or covenants contained herein shall be made by any employee or group of employees with the Company and in no case shall it be binding upon the parties hereto unless such agreement is made and executed in writing between the parties hereto and same has been ratified by the Union.

(B) The waiver of any breach or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all the terms and conditions herein.

783

JACKSON, LEWIS, SCHNITZLER & KRUPMAN

ATTORNEYS AT LAW

261 MADISON AVENUE
NEW YORK, N. Y. 10016

(212) 697-8200

LOUIS JACKSON
ROBERT LEWIS
THOMAS P. SCHNITZLER
WILLIAM A. KRUPMAN
NEIL M. FRANK
PATRICK L. VACCARO
DAVID M. TOLMACH
MARTIN F. PAYSON
VICTOR SCHACHTER

G. HARRISON DARBY
MELVIN S. EATZMAN
ROGER S. KAPLAN
ARTHUR R. KAUFMAN
DAVID I. KREITZMAN
PEGGY L. BRADEN
PHILIP S. NORTENSEN
ROBERT J. GIOVANNETTI
GREGORY I. RASIN
JOSEPH F. LEONARD
EDWIN C. EVANS

January 7, 1975

Mr. William Colavito
Shopmen's Local Union No. 455
853 Broadway
New York, New York 10003

Dear Bill:

Please excuse my delay in forwarding a copy of the revised Collective Bargaining Agreement incorporating those changes which have been agreed upon.

After you have had an opportunity to review the enclosed contract, please call me so that we can arrange a date for the next negotiating session.

Very truly yours,

JACKSON, LEWIS, SCHNITZLER & KRUPMAN

David M. Tolmach

David M. Tolmach

DMT/pc
Enclosure

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check bargaining
Please check off
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B.C.C.
and off

784
SECTION I
BARGAINING UNIT

GC #15

The following employees at the Employer's place of business located at 520 Morgan Avenue, Brooklyn, New York, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All production and maintenance employees employed by the Employer at its Brooklyn, New York, location, including leadmen, pattern and model makers, and the driver, but excluding office clerical employees, guards and supervisors as defined in the Act.

NO. GC15
Disposition ☒ ✓
in the matter of ATC
Date 11/11/55

785

SECTION *24*

RECOGNITION

The Company recognizes the Union as the sole and exclusive bargaining agency for the purposes of bargaining in respect to rates of pay, hours of work and conditions pertaining to employment for its employees in the bargaining unit as the term of "bargaining unit" is defined in Section _____, pursuant to Board certification dated January 20, 1972.

786

SECTION

Fla

MANAGEMENT RIGHTS

(A) The Company retains the exclusive right to manage the facility and to make any decisions affecting the business, whether or not specifically mentioned herein and whether or not heretofore exercised, including, but not limited, to location of operations, reasonable work method standards, types of equipment to be used or materials purchased or sold, and this exclusive right includes the right to hire and determine the number of employees in the facility or a department, including the number assigned to any particular work, to increase or decrease that number, to direct and assign their work, to establish new job classifications and job content and qualifications and wage rates heretofore, to determine the reasonable work performance levels and standards of performance of the employees, and to require the use of safety devices and equipment, to discipline, lay-off, discharge, suspend, transfer, promote and take any action considered necessary to establish and maintain efficiency and discipline.

(B) Any of the rights, power or authority the Company had when there was no agreement are retained by the Company and may be exercised without prior notice to and consultation with the Union, except those specifically abridged or modified by this Agreement and any supplementary agreement that may hereinafter be made.

(C) The Company shall have the right to post reasonable plant rules and regulations after discussion with the Union.

(D) This Section shall not abrogate or nullify any rights specifically provided for in this Agreement.

787

SECTION

CHECK-OFF OF UNION DUES

OK 3-3-75

(A) Upon receipt of an authorization signed by any employee to whom this Agreement is applicable, the Company shall, pursuant to the provisions of such authorization, deduct from such employee's earnings, on the first pay-day in each month, the amount owed to the Union by each such employee for Union dues; however, should any such employee have no earnings due him or her on the first pay-day in any month or should such employee's earnings be less than the amount such employee owes the Union for dues, then, in that event, the deduction shall be made from the employee's earnings on the next succeeding pay-day on which his or her earnings are sufficient to cover the amount of dues owed to the Union by such employee. On or before the 15th day of each month, the Company shall mail to the Financial Secretary of the Union a check made payable to the Union for the amount of dues the Company has withheld during such month, which shall be accompanied by a list, in duplicate, containing the names of the employees and the amount deducted from each such employee's earnings. Upon receipt of such check and list, said Financial Secretary of the Union shall sign one copy of such list, acknowledging receipt thereof, and promptly return such signed list to the Company.

(B) The Union shall keep the Company informed, in writing, of the amount of dues, including the amount of delinquent dues owed by each employee, if any. As of the effective date of this Agreement, the Union dues are \$10.00 per month.

Such dues shall not be changed except in accordance with the applicable provisions of the International Constitution and/or By-Laws of the Union and, in such event, the Financial Secretary of the Union shall notify the Company, in writing, and the amount of monthly dues as so changed shall thereafter be deducted by the Company from each such employee's earnings. The aforementioned authorization directing the Company to make the deductions as hereinabove provided for, when signed by an employee, shall be irrevocable for the duration of this Agreement or for a period of one (1) year (there shall be a withdrawal period of ten days), whichever date occurs first; and in the event any such employee desires to revoke such authorization on either of such dates, written notice thereof shall be given by such employee to the Company in accordance with the applicable provisions of such authorization; and the Company agrees to furnish the Union a copy of such notice.

(C) It is expressly understood and agreed that, ^{Comm. 11.1.19} upon receipt of proper proof, the Union will refund to the employee involved, any Union dues erroneously withheld from an employee's earnings by the Company and paid to the Union.

789

SECTION

VI

HOURS OF WORK

Five (5) days, eight (8) hours per day, shall constitute a standard work week for regular full-time employees, but in no way shall this constitute a guarantee.

The regular starting time and quitting time of each employee may be changed by the Employer.

790

SECTION ~~VII~~

OVERTIME PAY

Time and one-half shall be paid in each of the following instances:

- (A) All work performed in excess of forty (40) hours in any one week.
- (B) All work performed on Saturday or Sunday.
- (C) All work performed on any recognized holiday as provided in Section _____ of this Agreement.
- (D) Employees shall be required to work a reasonable amount of overtime, as requested.
- (E) There shall be no pyramiding of overtime.

791

SECTION

HOLIDAYS

(A) The listed holidays or days observed as such, shall be paid holidays, i.e., eight (8) hours straight time shall be paid therefor when no work is performed on any of such days, regardless of the day of the week upon which any such holiday occurs, including a holiday that occurs or is observed on Saturday. Holidays that occur during the vacation period of any employee shall be paid for in addition to vacation pay:

NEW YEAR'S DAY	COLUMBUS DAY
WASHINGTON'S BIRTHDAY	VETERAN'S DAY
LINCOLN'S BIRTHDAY	THANKSGIVING DAY
MEMORIAL DAY	CHRISTMAS DAY
JULY 4TH	ELECTION DAY
LABOR DAY	($\frac{1}{2}$ DAY OFF)

(B) To qualify for holiday pay, an employee must work his scheduled work day immediately preceding and immediately following the holiday or be excused from work that day.

(C) An employee shall receive holiday pay if he is actively employed and is not on layoff status or on leave of absence, and otherwise fulfills the eligibility requirements of this Section.

(D) Employees who accept a holiday work assignment and then fail to report and perform such work, unless for justifiable cause, shall not receive pay for that holiday.

(E) A paid holiday shall not be counted as hours worked for overtime purposes.

792

SECTION IX

REPORTING PAY AND/OR ALLOWED PAY

(A) Any employee ordered to report to work by an authorized Representative of the Company and who is not put to work, or who shall have appeared for work on a regular work day without previously having been informed by an authorized Representative of the Company not to report, shall, if able and willing to work, be paid for four (4) hours at the applicable rate for such day.

(B) Any employee injured at the Company's plant who is sent to a doctor and returns to work during his or her regular working hours the same day, shall be paid by the Company the applicable wage rate for such time thereby lost on such day by such employee. Should an injured employee be admitted to a hospital or be instructed by the Company or the doctor to refrain from performing further work on the day such employee is injured, such employee shall receive the applicable hourly rate for the entire work day. In addition, an employee required to attend a compensation shall be paid by the Company the applicable wage rate for such time thereby lost on such day by such employee, but in no event for more than one (1) hearing on any one injury. Should an injured employee be admitted to a hospital or be instructed by the Company or the doctor to refrain from performing further work on the day such employee is injured, such employee shall receive the applicable hourly rate for the entire work day.

793

SECTION X

GRIEVANCE PROCEDURE

A grievance is defined as a difference, dispute, complaint or misunderstanding regarding wages, hours or working conditions arising out of the written provisions of this Agreement and during the period this Agreement is in effect.

Any such grievance shall be settled in accordance with the following grievance procedure:

(A) The dispute or grievance shall be taken up by the Steward (within three days from the time of the occurrence that gave rise to the grievance), the aggrieved employee and the foreman of the department involved. The foreman shall render a decision by the close of the working day if handed in before noon, otherwise by noon of the following working day. An employee may file and process his own grievance as long as the adjustment is not inconsistent with the terms of the contract.

(B) If no satisfactory settlement is reached between the Steward and the foreman, the grievance shall be reduced to writing. The designated Union officer shall then investigate, present and discuss such grievance with the designated Company official within three (3) working days.

(C) If no satisfactory settlement is reached within three (3) working days under Step B, the designated Union officer shall call in the Business Representative and he shall meet with the designated Company official.

(D) In the event the grievance or dispute is settled, such settlement shall be reduced to writing and copies distributed to all persons involved. In the event the grievance or

794

dispute is not settled in a manner satisfactory to the grieving party, within five (5) working days from Step C, the grieving party has the right and authority to submit such grievance or dispute to arbitration in the manner hereafter provided.

(E) Failure of the Union to process the grievance within the specified periods of time shall result in a forfeiture of said grievance.

(F) Grievance meetings shall not be scheduled during working time.

795

SECTION

ARBITRATION PROCEDURE

In the event the grievance is not settled under the Grievance Procedure, the Union may, within ten (10) working days from date of receipt of the Employer's decision, at the last step of the Grievance Procedure, submit the grievance to arbitration, pursuant to the rules of the American Arbitration Association.

(A) The Union may request the American Arbitration Association to furnish it and the Employer with identical lists of persons eligible to serve as Arbitrators. Failure of the Union to make its request within the said ten (10) working days, shall result in a waiver of the claim.

(B) The parties may mutually designate the Arbitrator. If, however, within fifteen (15) working days from receipt of the original lists the parties shall fail to agree upon a single Arbitrator, either party may request the American Arbitration Association to submit an additional panel. If, after the submission of a second panel, the parties fail to agree upon the designation, the Arbitrator shall be appointed in accordance with the procedure followed by the Association.

(C) The Arbitrator may consider and decide only the particular grievance presented to him in a written stipulation by the Employer and the Union, and his decision shall be based solely upon an interpretation of the provisions of this Agreement. The Arbitrator shall not have the right to amend, take away, modify, add to, or change any of the provisions of this Agreement. In deciding the issue, the Arbitrator shall not consider the affect his award would have

upon employee morale, or whether employee tensions will be heightened or diminished. The Arbitrator's decision shall be final and binding upon the parties.

(D) The Arbitrator shall have the authority to order or deny reinstatement of an employee, with or without back pay, in whole or in part. Employees who have been discharged or suspended shall have the duty to seek work so as to mitigate the claim of back pay. Their failure to do so shall be considered by the Arbitrator adversely to the claim for back pay of such employees.

(E) The cost of arbitration, which shall include the fees and expenses of the Arbitrator, and an original of the transcript where mutually agreed upon, shall be borne equally by the parties. Each party shall pay any fees of its own representatives and witnesses for time lost, and the cost of the transcript where there is no mutual agreement to order it.

SECTIONNO-STRIKE CLAUSE

(A) During the life of this Agreement or any written extension hereof, the Union on behalf of its officers, agents and members, agrees that so long as this Agreement or any written extension hereof is in effect, there shall be no strikes, slow-downs, walk-outs, sit-downs, picketing, boycotts or any activities which interfere, directly or indirectly, with the Employer's operations or the sale of its products for any reason.

(B) Any employee who violates this provision shall be subject to disciplinary action, including discharge.

(C) A suit for damages alleging the Union's violation of paragraph (A) shall not be subject to the arbitration provision of this Agreement.

(D) A claim by the Company that the Union has violated paragraph (A), except as provided in paragraph (C) with respect to damages, may be submitted by the Employer to arbitration pursuant to the provisions of Section ____ (Arbitration Procedure) and the rules of the American Arbitration Association. The grievance shall be submitted to arbitration within ten (10) working days of its occurrence. Failure to do so shall result in a waiver of the claim.

(E) In the event an employee is continued in employment after the termination of a strike in which he has participated in violation of this provision, he shall not be entitled to any accrued wages during the period of the strike, nor to

any fringe benefit contained in this Agreement which may have accrued for his benefit during the period of the strike, nor shall he, for the duration of the strike, accumulate seniority or length of service for any purpose under this Agreement.

(F) During the term of this Agreement, the Company agrees that it will not institute a lockout of its employees.

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SECTION XII

PLANT VISITATION

The Union's representative may visit the Company's premises for the purpose of investigating working conditions or facts relating to any grievance or conferring with the Company. The Union representative must first notify a management representative. The Company will not unreasonably deny visitation privileges; and such Union representative shall conduct himself so as not to interfere with the work of the employees.

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As per memo
[unclear] [unclear]
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SECTION VIII

SENIORITY

(A) Employees shall be regarded as probationary employees until they have worked for the Company within the bargaining unit described and set forth in Section ____ of this Agreement for a period of one-hundred and twenty (120) days, and during such probationary period, such probationary employees may be laid off or discharged without reference to length of service. When employees complete the aforementioned probationary period, they shall have a seniority status in their classification in accordance with their length of continuous service in that classification. Layoffs due to lack of work, illness of the employee, or for other causes not due to the voluntary act or fault of the employee shall not constitute interruptions of continuous service, as those terms are used in this Section.

(B) Seniority and ability shall be considered in case of layoff, recall and promotion. Seniority shall apply to a job only where ability to perform the required work and contribution to the over-all efficiency of the operation are equal with respect to two employees in the sole opinion of the Company. In determining "ability", the Company may take into consideration employees' work attitudes and habits, punctuality, attention, reasonably continuous presence on the job and careful workmanship.

(C) An employee shall lose seniority and seniority shall be broken for any of the following reasons:

1. If the employee voluntarily resigns.
2. If the employee is discharged and not reinstated.

3. Failure to report to work after a layoff, within seven (7) days from a written notice, by certified mail, of recall sent by the Company to the employee at his last address of record on file with the Company.
4. Absence from work for three (3) consecutive days without notifying the Company of the reason for such absence during the absence, unless the employee can prove that his or her failure to give such notice was due to circumstances beyond his or her control.
5. Failure to report to work at the expiration of a leave of absence pursuant to this Agreement.
6. Absence as a result of illness or accident for a period in excess of one (1) year, unless extended by agreement between the Union and the Company.
7. Lay-off or leaves of absence in excess of the following periods of time:
 - 30 days for employees having up to six (6) months service.
 - 60 days for employees having from six (6) months to one (1) year.
 - 180 days for employees having more than one (1) year of service.

(D) In the event the employee is offered another job by the Company outside the bargaining unit and the employee accepts such job and leaves the bargaining unit, such employee loses all of his seniority rights under the terms of this Agreement after sixty (60) working days.

(E) The Company has the right to reduce the length of the workweek instead of resorting to layoff in accordance with seniority.

(F) This Section shall not apply to lay-offs of two (2) weeks or less. In such cases, the Company's decision shall govern.

802
SECTION XIV

LEAVE OF ABSENCE

(A) Leaves of absence without pay shall be granted by the Company to any employee (except probationary employees) without prejudice to the employee's seniority or other rights. All approval of leaves of absence shall be made in writing which shall be signed by a designated representative of the Company and a copy given to the Shop Steward for the Union, copy of which shall be furnished the employee. Leaves of absence will be for a period of not more than thirty (30) days; however, it may be extended upon request by the employee, subject to the approval of such request in writing by the Company, signed by a designated representative of the Company and the Shop Steward, copies of which shall be furnished the employee and a copy mailed to the Union. Only one (1) employee shall be granted a leave of absence at any one time under this sub-section.

(B) Any employee employed by the Company who is elected or appointed to an official position with the Union, which requires that he or she discontinue employment with the Company in order to perform the duties of such position, shall be granted a leave of absence, in writing, signed by a designated representative of the Company, for the period of such position, including any renewals thereof; and during the period of such leave of absence such employee shall retain his or her seniority status and other rights for the duration thereof. Only one (1) employee shall be granted a leave of absence without pay, at any one time under this sub-section. If an employee has an official position with the Union, he shall be permitted time off to perform duties without pay and only one (1) employee at any one time under this sub-section.

803

(C) The Company shall give employees time off with pay to secure a renewal of any license which is necessary in connection with his work. The Company shall also pay for the cost of such renewal.

(D) Obtaining other employment while on leave will automatically terminate employment with the Company.

(E) An employee who, due to the death of his parents, spouse, children, brother, sister, mother-in-law or father-in-law, loses work scheduled for any day up to a maximum of three (3) days (from the day of death through the day of burial, both inclusive), shall be given leave for each lost scheduled work day within such period with pay at the rate of eight (8) hours straight time at his base rate for each day of such leave.

804

SECTION *XV*

NO DISCRIMINATION

There shall be no coercion, intimidation, or discrimination on the part of either the Company or the Union, or their respective agents, officers, or members, against any employee employed at this plant for reasons of age, race, sex, color, religious belief, national origin, Union membership or non-membership in accordance with existing Federal and State Laws.

The amount of work a member of the Union may perform, shall not be restricted or interfered with by the Union or its officers or members.

805

SECTION

VACATIONS

(A) All employees who have been continuously employed for a period of the following shall receive:

1 year..... 1 week
2 years..... 2 weeks

(B) In order to be eligible for vacation, an employee must be employed on the payroll during the two (2) weeks preceding the start of the vacation period. If an employee has been employed less than one (1) year, his vacation will be prorated based on the number of months the employee has been employed.

(C) A vacation schedule shall be posted in the plant not later than May 15th of each year.

(D) A week's pay for vacation purposes, is defined as the average weekly pay, excluding overtime, an employee received based on the four (4) weeks immediately preceding the employee's vacation.

(E) An employee shall receive vacation pay during the week preceding his vacation.

806

SECTION

XVII

BULLETIN BOARDS

The Company shall provide the Union with Bulletin Board space in its plant(s), to be used for the posting of notices relating to official Union matters.

807

SECTION

XVIII

SAFETY AND HEALTH

(A) A Safety and Health Committee shall be established in each plant covered by this agreement, which shall consist of a representative of the Union employed by the Company and a representative of the Company. In the event the Safety and Health Committee discovers conditions which in its opinion, are dangerous or would adversely affect the health, life and limb of employees, such conditions shall be reported to the Company for correction and efforts to correct such conditions shall be initiated as soon as practicable.

(B) Each employee shall be furnished by the Company, an individual locker for his clothing and tools.

(C) The Company shall provide the following:
water and milk when welding or burning material which is coated with paint or that is galvanized.

808

SECTION

XII

PAY DAYS

The Company agrees to pay the employees on a regular stated pay day in each week by check at end of day.

When an employee is laid off or discharged, he shall be paid off immediately by check. The Company is required to install a time clock and time cards in order to keep proper record of employees' time worked. The Company must keep time cards and all other payroll records available in accordance with existing Wage-Hour Laws.

809

SECTION

SAVINGS CLAUSE

In the event that any provision of this Agreement shall at any time, be declared invalid by any court of competent jurisdiction or by any legislative enactment, neither such decision nor legislative enactment shall invalidate the entire Agreement, it being the express intention of the parties hereto that all other provisions not declared invalid, shall remain in full force and effect. In the event that any Federal or State statutes, enacted subsequent to the effective date of this Agreement, shall have the effect of invalidating or voiding any provision of this Agreement, the parties hereto shall meet solely for the purpose of negotiating with respect to the matters covered by the provision which may have been so declared invalid or void.

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SECTION

XXV

REST PERIODS

There shall be one rest period of ten (10) minutes' duration, which shall be granted during the first half of each shift. Employees who work two (2) or more hours overtime shall be granted a fifteen (15) minutes rest period during the overtime period. During each of the aforementioned rest periods each employee shall be paid the applicable hourly rate, and no work shall be performed during such periods.

811

SECTION

SCOPE OF BARGAINING

The Company and the Union acknowledge that during the negotiations which resulted in this Agreement, each party had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Company and the Union, for the term of this Agreement, each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter not specifically referred to or covered in this Agreement, including fringe benefits, even though such subject or matter may not have been within the knowledge or contemplation of the parties at the time they negotiated or signed this Agreement.

SECTION

DISCHARGE, DISCIPLINE OR SUSPENSION

The Company shall have the right to maintain discipline and efficiency, and shall have the right to discharge or suspend an employee for just cause, subject to the grievance procedure of this Agreement. "Just cause" for discharge shall include but not be limited to the following:

1. Fraud of theft.
2. Being under the influence of intoxicants or drugs while at work; bringing intoxicants or drugs to the work station on the Company's premises; use of intoxicants or drugs while at work.
3. Abuse of the Company's property or material.
4. Fighting on Company property.
5. Unauthorized absence for two (2) consecutive working days without good cause.
6. Falsifying records or misinterpreting facts on Company records or files.
7. Gambling during working hours in any way, shape or manner.
8. Failure or refusal to perform assigned work, unless it affects the health and safety of the individual.
9. Leaving the work station during working

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hours without permission.

10. Sleeping during working hours.

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814

SECTION

TERMINATION

This agreement shall become effective as of the _____ day of _____, 197_, and shall remain in full force and effect until midnight, 197_; and unless written notice of a desire for change therein or to terminate the same be given by either party to the other at least sixty (60) days and not more than ninety (90) days prior to such expiration date, it shall continue in effect for an additional year thereafter. In the same manner, this agreement shall remain in effect from year to year thereafter, subject, however, to the right of each party to terminate it at the expiration of any such year by giving notice, in writing, to the other party at least sixty (60) days and not more than ninety (90) days prior to the expiration of such year.

EXHIBIT 101

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WILL BECOME
OFFICIAL

SECTION 16
UNION MEMBERSHIP

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(A) Should an employee choose to become a member of the Union, he shall as a condition of employment, remain a member for the duration of the Agreement, except that he may withdraw from membership and retain his employment with the Employer during: (1) the thirty day period immediately following the signing of the contract and; (2) the thirty day period immediately preceding the first anniversary of the contract. A withdrawal from membership shall be effected in writing addressed to the Union, with a copy retained by the employee.

An employee shall be deemed a Union member within the meaning of this clause, only under the following circumstances:

All employees covered by this Agreement shall be advised of the provisions of this Article by the Company.

(B) Employees shall not attempt to persuade any other employee during working time to join the Union.

(C) Employees shall not hold meetings during working time.

G. C.

3/14/76

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 SOLON GUERRIER
 76 MacArthur St
 RAFAEL BAUNY
 591 Woodward Ave Bklyn
 CATANO BALDASSARE
 3744 Ocean Ave Bklyn
 IVAN VILLEGAS
 385 South 2nd St
 MARIANO ROMAN
 432 6th Ave Bklyn
 ALAN DUBINSKY

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5.15			
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4.00			
PAUL	150	100	
- 3.25			
PAXU	35		

9/27. EDWIN 20

G.C.

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 3.75 CATANO 15
 5.00 IVAN 15

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3/10/76 Reporter *Ru*

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SECTION

BARGAINING UNIT

Agreed
478

This Agreement is applicable to all production and maintenance employees employed by the Employer in and about its shop, including leadmen, pattern and model makers, and the drivers, but excluding office clerical employees, guards and supervisors as defined in the Act.

G. C.

3/10/76

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✓
LM

819

SECTION

PLANT VISITATION

The Union's representative may visit the Company's premises for the purpose of investigating working conditions or facts relating to any grievance or conferring with the Company. The Union representative must notify a management representative of his presence. Such Union representative shall conduct himself so as not to unduly interfere with the work of the employees.

Agreed
3/26

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820

SECTION

SAFETY AND HEALTH

(A) A Safety and Health Committee shall be established in the plant covered by this Agreement, which shall consist of a representative of the Union employed by the Company and a representative of the Company. This Committee shall meet periodically. In the event the Safety and Health Committee discovers conditions which, in its opinion, are dangerous or would adversely affect the health, life and limb of employees, such conditions shall be reported to the Company for correction and efforts to correct such conditions shall be initiated as soon as practicable. If the parties fail to agree, accelerated arbitration shall be utilized.

(B) Each employee shall be furnished by the Company an individual locker for his clothing and tools.

(C) The Company shall provide the following:
water; milk when welding or burning material which is coated with paint or that is galvanized.

821

SECTION

SAVING CLAUSE

It is assumed by the parties hereto that each provision of this Agreement is in conformity with all applicable laws of the United States and the State of New York. Should it later be determined that it would be a violation of any legally effective Governmental or State Order or Statute to comply with any provision or provisions of this Agreement, the parties hereto agree to renegotiate such provision or provisions of the Agreement solely for the purpose of making them conform to such Governmental or State Order or Statute so long as they shall remain legally effective, and the other provisions of the Agreement shall not be affected thereby.

SECTIONSENIORITY

(A) Employees shall be regarded as probationary employees until they have worked for the Company within the bargaining unit described and set forth in Section 1 of this Agreement for a period of one-hundred and twenty (120) days, and during such probationary period, such probationary employees may be laid off or discharged without reference to length of service. When employees complete the aforementioned probationary period, they shall have a seniority status in their classification in accordance with their length of continuous service in that classification. Layoffs due to lack of work, illness of the employee, or for other causes not due to the voluntary act or fault of the employee shall not constitute interruptions of continuous service, as those terms are used in this Section; and the employee's seniority status shall not be affected by such interruptions; provided, however, the continuous service of any employee and his or her seniority status based thereon shall be terminated for the following reasons:

1. Absence from work for three (3) consecutive days without notifying the Company of the reason for such absence during the absence; unless the employee can prove that his or her failure to give such notice was due to circumstances beyond his or her control.

2. Failure to report for work and return to work when laid off, within five (5) days after being notified by certified mail requesting him or her to do so.
Any employee who is laid off shall keep the Company advised, in writing, of his or her current address, and the Company shall notify such employee, by certified mail addressed to such address, when an opening is available for him or her in line with his or her seniority status. Such notice shall specify the date and hour to report for work.
3. Discharge for proper cause.
4. When an employee resigns, quits, or accepts a position with the Company which is not included in the bargaining unit.
5. Failure of an employee to report to work and return to work following the conclusion of an approved leave of absence, as provided for in this Agreement.
6. When an employee has not performed any work for the Company, within the bargaining unit, for one (1) year.

(B) In all cases of promotions (except to supervisory positions not covered by this Agreement) and in all cases of increase or decrease of forces, employees shall be given preference in their classification in accordance with their length of continuous service. Employees may be given a temporary promotion with a trial period of up to thirty (30) days, and in such event the employees involved shall be paid the appropriate rate provided for elsewhere in this Agreement for the work operation to which the employee(s) is temporarily promoted. If a layoff occurs in the classification from which the employee was promoted within one-hundred (100) working days of that promotion, that employee must be demoted for purposes of layoff.

(C) If during the term of the Agreement, the Company undertakes work for which the classifications contained in this Agreement are not applicable, or should a new work operation be established, or should a type of machinery be installed in the Company's plant, the operation of which would require employees to be trained therefor, then, in either of such events, preference for assignments to such work shall be given employees with the greatest length of continuous service with the Company.

(D) All layoffs of employees shall be made as a result of a reduction of forces in accordance with the provisions of the first paragraph of this Subsection, and an employee shall not be discharged except for proper cause. Employees may be required to perform any of the work which is generally covered by the classification in which he or

she is classified, and if the performance of such work is in accordance with the generally recognized shop requirements, employees shall not be subject to be laid off, except as a result of a reduction of force as hereinabove provided; however, if an employee is assigned to a type of work which he has not previously performed, and if, after being given a reasonable opportunity to learn to perform such work, he or she is unable to do so, then, in that event, the employee shall be subject to be laid off, if no other work is available.

(E) When it is necessary to lay off the employees in any classification, all probationary employees classified in such classification shall be laid off before any other employees are laid off.

(F) The Company will post on its Bulletin Board lists showing the current seniority standing of each employee and will furnish the Union with a copy of each such list. Revised lists will be posted every two (2) months. Any appeals from the seniority list as posted must be made within ten (10) regular work days of posting; otherwise, the list will be considered final.

826

SECTION

NON-DISCRIMINATION

(A) Neither the Company nor the Union, nor any party to this Agreement, shall pass, establish, or attempt to enforce any rule or regulation or requirement which would constitute a violation of this Agreement, or be inconsistent or in conflict with the provisions of this Agreement.

(B) There shall be no discrimination against any employee with respect to any term of employment or otherwise, by reason of race, color, creed, or sex; ^{ACC} nor shall any employee be disciplined or discharged except for proper cause.

(C) The amount of work a member of the Union may perform shall not be restricted or interfered with by the Union or by its officers or members.

827

SECTION

BULLETIN BOARDS

The Company shall provide the Union with Bulletin Board space in its (plant(s), to be used for the posting of notices relating to official Union matters.

2001 11 30

828 G.C. Exp in EU-
3/21/76
Meeting 9/9

Same W.C. - Pension Plan - Holidays
Vacation Plan wage increase 9.10%
since 1971 - informed W.C. of BC +
BS executive indemnity plan.

B.H. Pat - lead man welder fabricator
saw break shear fork lift maintains
any man does heavy work all
hand tools - does loading & un-
loading (reads drawing)
Lino - does helps on break & shear
does not operate fork lift.

Camelo - same as Lino

Rocio - Same as Pat - doesn't
weld

Miguel - leadman on shear
helps to do with inventory loading
unloading - same as Pat.

Jose - Break set up & operates
operates fork lift & helps on
shear

Bernard - same as Rocio

Paul - Same as Pat but
doesn't weld.

Paul - same as Jose

Gabriel is a helper on shear
punch & break

Edwin Rodan - same as Gabriel.

Conversation ensued re Antonio
Zigueris - W.C. asked Bruce
to reconsider the discharge
might have to go to arbitration

Section - section unit before
Labor. Bd.

form -

copy of check-off authorization

Sec 6 - 40 hours work week
acceptable.

Sec 7 B & C
lengthy discussion on why
F & G.

Sec 8 C - clarification

D.

830

Time

4.

leave in a year
even he working

Bereavement-

Sec 16 - we will improve -

Sec. 20

Sec. 21 - out

831
9/20 On this Co gave union the following sections.

Several of the sections were discussed Bill Colovito wanted time to check out the language.

Pension & Life Insurance - 1973
\$6329 each year

Blue Cross
\$2888 each year

Driver & Draftsman

Tibor Keller - salesman - outside.

expedites

7-9 - expedites purchase

orders -

Hank Kaplan - receives orders
figure what materials are ne

ee - finisher - 4.50
600 (6.25)

8.32

2 people on list

W.C. Work up job operations - what
each employee does on normal
day

② What holidays

③ Copy of Pension & Welfare Plan

D.T. Pension - plan

What increases have been
given since 71.

MS

✓

833

3/26/75 - B.C. + DMT

JOB OPERATION - BC want us
to type up what each man
does.

Union Visitation

Security

A. 120 V 30

B. Check union language
100 Days OK

C. NO!

D. OK

E. OK

F. OK

G. OK

H. hold

I. hold)

Check our notes 11/4

Check Rich Leone - what
policy.

Give - Blue Cross - Blue Shield

look
at union
security
clause
for change
6/5
25
15 25
9
1/

834

3/26
7

Union proposal

X out 1st sentence

2nd sentence

This agreement shall be
applicable and to
work done by such part
ies in or about the co.
shop - X out Bblzn location

835

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

MILGO INDUSTRIAL, INC.,

Respondent,

-and-

SHOPMEN'S LOCAL UNION NO. 455, INTER-
NATIONAL ASSOCIATION OF BRIDGE,
STRUCTURAL AND ORNAMENTAL IRON WORKERS,
AFL-CIO.,

Charging Party.

:
:
:
:
:
: CASE NO. 29-CA-4612
:
:
:
:
:
:

AMENDED ANSWER TO COMPLAINT

Respondent, MILGO INDUSTRIAL, INC., by its attorneys,
Jackson, Lewis, Schnitzler & Krupman, for its Amended Answer
to the Complaint, respectfully alleges as follows:

1. Admits the allegations contained in paragraphs 2, 3,
4, 5, 6, 7, 9, 10, 11 and 12 of the Complaint.
2. Denies each and every allegation contained in para-
graphs 13, 14(a) and (b), 15, 16, 17 and 18 of the Complaint.
3. Denies knowledge and information sufficient to form
a belief as to the truth or falsity of the allegations contained
in paragraphs 1 and 8 of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

The allegations of the Complaint allege dates which
are beyond the six (6) month statute of limitations provided for
in Section 10(b) of the Act and as such these allegations must
be dismissed.

RECEIVED

DATE

Resp. 1
✓

HC

836

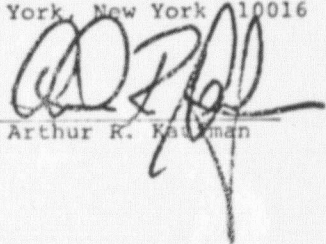
AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

The conduct of the Union during the course of the negotiations evidenced a pattern of bad faith bargaining and, accordingly, precludes them from seeking the Board's protection.

WHEREFORE, Respondent prays that the Complaint be dismissed in its entirety.

Respectfully submitted,

JACKSON, LEWIS, SCHNITZLER & KRUPMAN
Attorneys for Respondent
261 Madison Avenue
New York, New York 10016

By: 
Arthur R. Kaufman

Dated: New York, New York
March 26, 1976

837

in EV
RECEIVED EX 2 FOR 12
MAY 31 1976

State of New York }
County of New York }

I, William Calavito, being duly sworn
depon and say

1. I am President of Shegner's Local 455. My
office is located at 853 Broadway, New York
NY 10003, GR 5-2226

2. Milgo Industrial, Inc. is engaged in the
fabrication of custom metals. It has one
place of business at 520 Morgan Avenue,
Brooklyn, New York.

3. Bargaining with Milgo commenced
on or about August 8, 1974 pursuant to
a court enforced bargaining order of the
Board. Around the end of June or
beginning of July 1974 Local 455 wrote to
Milgo requesting a meeting for the purposes
of negotiating. There were several telephone
conversations thereafter between the Company's
attorney David Tolmach and the office
and a meeting was set up for August 8, 1974
at Tolmach's office. I was advised of the
arrangements by John Zito, Sec. Treas. of
Local 455. I don't believe I had anything to
do in setting up this first meeting. I was
involved in all the negotiations however.

4. Present at the first meeting was Tolmach.

WE Bruce Hillen, one of the principals of the
Company, and myself. The first meeting
took about 1 1/2 hours. As soon as the
meeting started I gave Tolmach a copy of

WE Local 455's standard form contract for

lubricating shops. I only had one copy to give out. Gillin asked for a copy for herself. I told him I would supply him with one. (Shortly after this meeting I had a copy hand delivered to him). Tolmach and Gillin looked through the contract quickly. There was no discussion as to the specific items of the union's contract proposal. The Company made no counter proposals at this meeting. Tolmach stated he needed about 2 weeks time before the next meeting. I assume it was for Tolmach to review the contract proposal. I said to Tolmach that if he needed the time it was all right. Tolmach asked for a copy of Local 455's pension and welfare booklet (the union's contract proposal had a pension and welfare clause). I told them I would mail them the information. Gillin was supplied with the booklet when the contract was delivered; the booklet was VC mailed to Tolmach. They asked what was included in the welfare program. I said it included blue cross, hospitalization, dental insurance, drug prescription plan, major medical (HMO deductible), life insurance (\$10,000) and eyeglasses. I said the cost was in the contract. I believe they asked what the pension benefit was. I said it was a portable and pooled fund program. I also said employees get credit for past VC service from different shops. I asked if

the company had a pension program and a medical program. Tolmarch and Hillen said they had both programs. I asked for copies of a trust agreement if any and all other material relating to the programs with respect to costs, benefits and who was covered. Tolmarch and Hillen said that such information would be supplied but no specifics of the Company's programs were discussed. I also asked for information as to wage increases and bonuses granted by the Company to employees since 1971 (the time Local 455 started organizing). I also asked for a list of holidays, the job operations of all the employees, employee by employee, as how each employee was classified. I also inquired about 2 employees, ^{David} Kaplan and Tibor Keller as to their inclusion in the bargaining unit. They said that those employees work had changed and would not be in the bargaining unit. With respect to the other information, Tolmarch and Hillen said it would be supplied. There was some general talk of job classification and what employees did, ^{but no specific} prior to the first meeting. Local 455 requested names of employees, ^{start plate} classification, rate of pay and benefit. The information was supplied with the exception of job classification as of the first meeting. Much of the meeting

was taken up by Tolmach and Giltin discussing a law suit against the Company with over a \$4,000,000 in damages. Tolmach said he could not meet for about two weeks but said he would call for another date.

5. About 1 1/2 weeks went by and I received no call from Tolmach. I telephoned Tolmach's office. I was told Tolmach was not in and I left a message that Tolmach should call me about arranging a meeting. Shortly thereafter Tolmach called the office and spoke with John Zito. Zito told me that Tolmach said that he was going on vacation and suggested that the next meeting be on September 9, 1924 at 2:30 at his office. (At the first meeting I said I preferred to meet at the Company office for negotiations. Tolmach and Giltin said there was not adequate room to meet there). (At the first meeting when I handed the Company the contract proposal I did not ask them to sign it. I said it was a proposal and that everything was negotiable.) I told Zito to call Tolmach back and confirm the arrangements. Zito told me that he did so. There were no other phone conversations between August 8 and Sept 9.

6. On Sept. 9 at 2:30 PM I met with the Company at Tolmach's office. Present was Giltin, Tolmach, myself and Anthony

Schifano, Vice President of Local 455. Tolmach and Gellin gave me a response on the various sections of the contract. Tolmach said that they would not go along ^{at this point} with the successor and assignee clause of the preamble as it would cause problems should the Company ~~sign~~ wish to sell. Tolmach said he wanted the bargaining unit clause to have the same language as in the MKB election held previously and substitute that for section 1 (page 1). With respect to section 2 (p. 2), the Company thought the clause gave the International a veto power. I said that is not what it was about and said I would discuss it further as to the meaning and effect of it. Tolmach agreed to section 3 (p. 3), section 4 (p. 4). The Company agreed to section 5 (p. 5) as long as an employee filled out a check off authorization form and such form provided for a period of withdrawal. I said the clause covers the period of withdrawal and Tolmach that the Union would not want check off for an employee who does not authorize it and the union has a policy of having members sign a check off form. The Company recognized that section 6 (p. 6) provided for an 8 hour day despite its language. I confirmed this and said that I was sure we could work out language which Tolmach said was his main concern. Tolmach said the Company did not want the last sentence re the starting and quitting times by mutual agreement but wanted the sole right to decide. I said as long as the Company consulted with the employees in the regard and substituted ~~the~~

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"employee" for "Union" I would be OK. Tolmach said he would come back to it. Tolmach was opposed to section 7 in its entirety except I which he agreed to. Tolmach said that he ~~felt~~ was opposed to the principle of paying overtime if an employee did not work 8 hrs per day or 40 hrs per week since the contract proposal provides for overtime ~~at the end of the shift~~ after the end of before the beginning of a regular shift, as he felt it would be abused. I said this was in all contracts and it was not abused. Tolmach did not agree to double time overtime on Saturday Sunday overtime. For holidays he said he did not agree to triple time overtime for holidays but would agree to 2 1/2 times. I said all Local 455 shops have triple time. Tolmach did not agree with notice to Local 455 on overtime nor did he agree to G. He did not agree to H because of the privileged status of the Steward nor did he agree to (J). Tolmach gave no proposals of his own and he passed to the next section. With respect to Section (8) p. 8 he wanted to keep the status quo and did not want to add additional paid holidays (he had 10 1/2 we had 13). He also said that for an employee to be eligible for a paid holiday he had to work the day before and the day after. I refused to accept this. With respect to Section 9 (p. 9)

843

Tolmach wanted to limit D. not to cover a second visit to a doctor because of an injury or a second appearance at a compensation hearing. I did not agree to the limitation Tolmach said. the only objection he had to Section 9 was D. With respect to Section 10, Tolmach proposed a section with time limits on grievance arbitration (nothing specific was proposed) and also the Federal Mediation and Conciliation Service instead of the AAA. I opposed the schedules as inappropriate for a small shop and said Federal Mediation was not as good as AAA but I would check into it. Tolmach said with respect to Section 11 he did not like the language and would give a draft counterproposal of a no strike clause.

With respect to Section 12 he wanted prior notice of visitation. I ^{said I} did not want this in a clause as in practice union delegates do not interfere in visiting. With respect to Section 13, Tolmach said he wanted a longer probationary period than 30 days. Tolmach disagreed with A(4); he said he wanted some provision whereby an employee could be promoted outside the bargaining unit to retain his seniority if he comes back in the unit. I said that would be unacceptable as giving such an employee a benefit to the detriment of others in the bargaining unit who do not have it.

844

With respect to 13(B), Tolmach said he did not want seniority to prevail re promotion, layoff, and recalls. He said he opposed the clause strongly. I said the Union wanted seniority to cover in such situations for employee job security. No other clauses were commented upon except "D" which Tolmach said he opposed. Tolmach said section 14 should contain a greater limit to leaves of absence, should contain a restriction to leaves of absence for gaining other employment and the (D) should only apply when there was scheduled workdays. I said I would talk about Tolmach's objections further and commented there was a limitation on the amount of leaves of absence period. On section 15 Tolmach wanted to omit "D" and omit "age" from B. I said "age" was the law Tolmach said he knew that. I said I did not want it removed. I ~~asked what the problem was~~ said I would be available to discuss D as I could see situations where an employee would have to go for a physical exam. With respect to Section 16, Tolmach said the Company would agree to an increase in vacation benefits but was opposed to the Industry Vacation Plan and that he wanted ~~vacation~~ vacation eligibility to be limited to time only with the Company, not with the industry.

845

I said when the Company meet its vacation proposals I would discuss it further. Tolmach agreed to Section 17; he said it was OK. Tolmach did not oppose a Safety and Health Committee in Section 18; however he opposed it power to stop the operation for safety reasons. I disagreed with this and we went on to the next section. With respect to Section 19,

Tolmach said he would get back to me as to the issue of bonus work. With respect to Section 20, Tolmach said he would not agree to any subcontracting clause at all in any agreement. I said I wanted a subcontracting clause. Tolmach said Section 21 did not apply to M-ly as it did no erection work.

I asked if the Company did ^{field} ~~construction~~ work by its employees and they said yes. I said I wanted ^{the} a clause covering ~~this situation~~ although Local 455 would permit employees of M-ly to do field work because it was an International requirement.

Tolmach's only objection to Section 22 was he wanted the 3 year record requirement out. I asked why, he mentioned mentioned he wanted to do what the law requires but did not know the law. I said I would check it out. Tolmach agreed to Section 23; he had no objection. Tolmach said

He did not wish to comment on Section 24 at this

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point; he said he did not want to have
the Company does not have a classification
system and sees no need. I said there was
classification although informal and such a
system is needed to avoid inequities. With
respect to Section 25, Tolmach said he
would make a proposal. On Section 26, Tolmach
was opposed to becoming part of the
Welfare Fund program; he wanted to maintain
the status quo. I renewed my request made at
the previous meeting. Tolmach said the company
welfare plan cost \$47 per employee per month.
He did not give me the plan itself and benefits
and said he would get it to me as soon as he
got a copy of it. Tolmach's position
was the same for the Pension Plan (Section 27).
He gave me no information about it and
said he would supply me with the Trust
Agreement, any documents, and the cost after I
had requested the information again. Tolmach said
he would make a proposal on Section 28; he
said nothing specific. On Section 29 and
30, Tolmach said he did not want such
funds for the first contract. I said we will
see how the negotiations develop. On Section 31
Tolmach said he would make a counter proposal.
There were no other comments.

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7. At this meeting the Company merely responded to our contract proposal. There was not much specific bargaining; we ^{stated} ~~made~~ our positions. We scheduled a meeting for Sept 20, 1975 at Tolmach's office. At the point, I do not know if the Sept. 20 meeting took place. It may have been cancelled.

The next meeting took place on Oct 7, 1975. I don't know how that meeting was arranged. Present was Gutlin, Tolmach and myself.

8. On October 7, the first thing that was discussed was the bargaining unit (Section 1). Tolmach objected to the last sentence of our proposal stating they sent employees on job site and did not ~~pro~~ want to be precluded from this. I repeated that this was an International requirement and a permit basis could be worked out permitting the Company to use its employees for field work. I was confused about the Company position on the bargaining unit. I don't remember if I asked the Company to clarify it (re the previous NLRB union language). Tolmach again objected to the successor and assigns clause. I said it was employee right and security involved as the Union wanted such protection for employees. At this meeting the Company gave us three typewritten clauses. I am not sure what they were but I believe

848

they were management's rights recognized as bargaining unit since that is what we discussed. We both agreed that the recognition clause should be held in abeyance until we resolve the bargaining unit. Their proposal was similar to ours. We discussed briefly the Company's management rights proposal. I said I was ~~opposed~~ ⁱⁿ principal. Tolmach said it had to be in an agreement. We did not discuss it further at the meeting. On section 4 (p 4) of our proposal, The Company changed its position.
Tolmach said that Mac Githin said that employees should have the right to join or not to join Local 455 however Tolmach said Mac Githin was flexible probably in this matter. I said I did not know how Githin was suddenly concerned with employee rights in view of extensive violations previously. We did not pursue the matter further. Tolmach did not discuss what kind of a clause would be acceptable. Tolmach said he was still considering section 5 of Local 455's proposal and would get back to me on it. He did not renew the previous objections to it. We discussed other sections. Tolmach renewed his objection to H of section 7. I said the steward should be on any job where there are employees. We were

849

at a standoff on this issue. We discussed Section 9 of our proposal again. The Company renewed its objections. We discussed the matter generally and we were all in general agreement that language could be drafted to avoid abuses. No specific language was discussed. With respect to Section 10 of our proposal ~~we~~ we left the matter of the AAA v FMCs open as I had not touched bases with my attorney on this. We discussed the superiority ^{of the strand} and retention of the strand upon ^{his Contract} discharge ^{to the strand}. The Company's position was no superiority or retention re the strand. My position was Section 10(A) as written. We discussed this extensively but neither party changed its position. I did say that if we could have an arbitrator re a strand discharge there could be a fast arbitration. The Company said it did not want a discharged employee returned under any circumstances. No other items of any contract were discussed. Tolmach and I set up a meeting for October 17, 1974. I made no requests for information at this meeting.

9. On Oct 17, 1974, I met with Tolmach and Gitlin at Tolmach's office. At this meeting there was extensive discussion on plant visitation.

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Tolmach said the Company wanted advanced notice of visitation. I said the Union could not agree to this. I said the Union does not interfere with production upon visitation and no other shop under contract requires advanced notice. I said in some cases the Union would not want to let the Company know I was coming down. Both parties maintained their positions; there was no compromise offered by Tolmach or I. We discussed 13(c) of the seniority proposal of Local 455. Tolmach wanted a junior employee to be able to do the work of a man in a lower classification regardless of seniority even if the more senior employee was on layoff. I said layoff has to be on seniority. We were at a standoff on this issue. There was nothing else with respect to a contract discussed. At this meeting Tolmach and I agreed to meet on November 4, 1974.

10. On November 4, 1974 Tolmach and Schifano met at Tolmach's office. Bruce Githin was not present. At the onset of the meeting I asked Tolmach for the information with respect to employee job tasks and classifications and the cost of the pension benefits of the Company. I also asked for the copy of the ^{Company's} Welfare plans. I had already

851

received the Pension Trust agreement. There were no other documents. Tolmach said he had not got a hold of the Welfare plan and would supply me eventually with the other information. We did not discuss pension and Welfare at the meeting. However, Tolmach said that with respect to any economic offer by the Company it would cover all ^{or} things like coffee breaks or reporting to work pay. Then we discussed Section 13 of Local 455's contract proposal. There was extensive discussion of 13 B. Tolmach wanted some language in B ~~that~~ to qualify the proposed clause that ~~the~~ an employee had to have qualification to do ~~the~~ a job with respect to layoffs, promotion and recalls. I said Local 455 would go along with something like that. No specific language was discussed. Tolmach & I agreed to modify the clause to read "trial period of 'up to' 30 days" Tolmach said that a new employee should be able to be promoted if he had more qualifications than a senior employee although both were qualified. I said I would not agree to this; if both employees were qualified the senior employee should get the promotion. On 13 D Tolmach and I agreed to modify the clause to add "provided

852

16

the employee was qualified to do the work in question" and Tolmach and I agreed to this. On 13 (E) after discussion, the Union agreed to add to the clause "if after being given a reasonable opportunity of up to 10 working days" and this was agreed to. Tolmach then said he agreed to B F & G as written. With respect to 13 H Tolmach suggested holding off on it until after the classifications were worked out. We discussed 13 I extensively with respect to the 1 day notice in advance of lay off. Tolmach said he saw the merit of the 1 day notice but he wanted to consult with Bruce G. H. M.

On Section 14 A, Tolmach raised a new objection. He said he did not want the steward to sign a leave of absence request; he said the steward should only get a copy of a request.

He also wanted a limit on the number of employees who could be on leave. I said that I would agree to one employee per classification limit but did not think it would be a problem. I don't recall responding to Tolmach's objection re the steward signing the leave request. Tolmach said B and 1st paragraph of C was OK. However raised 2 new objections. With respect to the 2nd paragraph of 14 C

he did not want seniority to apply. I did not

85.

change my position on this point out I was important re Seniority. Tolmach said he would check it out with Bruce Githin.

With respect to 14 D. Tolmach wanted to exclude brother and sister in law. I said there were immediate family and we agreed. He said I agreed to it. I would be OK. I said I would take it under advisement.

With respect to Section 15. Tolmach said there was no change his position. I said we probably could work out D but would not delete age from B. With respect to 16, Tolmach said the only change the

Company would make from its present vacation benefits would be to give 3 weeks after 8 years of service, and would not agree to B or F although we discussed it. The Company's present vacation benefits were 1 week for 1 year and 2 weeks for 2 years. ^{we had previously} Tolmach changed his

previous agreement to Section 17. He said he wanted to limit posting only to union elections, meetings and one other thing. I said we want to post many other union items such as consumer and other official information from Local 155. Tolmach said he would get back to me after talking to Githin.

we Tolmach also changed his position of Section 18 of the union's proposed contract. Tolmach said he

854

objected to B C & D and they should be deleted. But he modified his previous objection on A stating that if the Safety Committee felt there was a hazard instead of shutting the ~~go~~ operation down he would agree to accelerated arbitration. I said I would to accelerated arbitration but held on position on B C & D for inclusion. I told Tolmach that the employees were concerned with having company supplied equipment and sanitary facilities. On Section 19, Tolmach said if the company was not precluded from giving bonuses not related to work production, he would agree. I said it was OK. We discussed subletting clause Section 20. Tolmach said he would wait until he discusses it with Grace. We discussed Section 22 and agreed to discuss it further. We agreed to Section 23; I agreed to add the word 'solely' before the phrase "for the purpose..." Nothing else with respect to the provisions of a contract were discussed. We agreed to meet Nov. 12, 1977.

11. On Nov 12 I met with Bruce Gitter and Tolmach. I renewed my request for the Welfare benefits of the Company. Tolmach and Gitter said they were improving their benefits to make employees eligible for blue cross blue

855

should after one year. They said an employee
 did not become eligible until after 7 years of
 service. ^(that information was supplied prior to the institution) I don't know if they said the
 Company had increased medical coverage at the
 time. At some point in 1974 I believe
 employees told me they were now covered by
 medical benefit. When I was told the Company
 was ignoring benefits I said I would be in
 agreement on the Union proposal. I don't know if
 Tolmach or Gitter said new medical benefit
 had already been instituted. I don't know
 if they were put into effect. It may be that the
 new medical benefit was an offer. I rejected it
 as such and objected to it since I wanted
 Mulgo to come into the welfare fund. Tolmach
 said the improvement would cost \$1.00 per hour per
 employee. With respect to the pension cost
 of his program, Tolmach said he would get
 me the information. I have never received
 the information. With respect to vacation
 benefits Tolmach said, ^{with respect to} the 3 weeks after 8 years,
 the third week would have to be scheduled
 with respect to the Company's production needs;
 if a 3rd week could not be scheduled he
 would give vacation pay in lieu of a vacation.
 I said the problem could be worked out. There was
 no discussion with respect to the other vacation

856

items. Tolmach made a wage increase offer of 25¢ per hour. I said it was inadequate ^{for all employees} but we would negotiate. Agreed asked for the employee tasks and classifications to establish minimum wage rates. I was told the information would be supplied. Gittlin said the Company had functional interchange and therefore no classification. I was told I would be supplied with job operations the employees performed. I needed the for bargaining on a classification system and wage differential based on skill and responsibility. We discussed the successors and assigns clause; neither party changed its position. No concessions were offered. The same occurred with respect to the bargaining unit. Section 3 was agreed to after I agreed to modify the clause and remove "plant clericals". However, it was understood that agreement on the clause was tied to agreement on the bargaining unit. Tolmach took a new position with respect to Section 4 of our proposal. He said he would agree to it if the Union would shortly. Tolmach did not propose any concessions at this point. I said we would be willing to make concessions as we have done already.

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Tolmach also stated he wanted more concessions on Section 5 check off. He wanted the "10th day" changed to the "15th day"; he wanted to add a 10 day withdrawal period 5 B., he wanted to omit "the Company, or to". I agreed to all of this. We also discussed Section 6; Tolmach said the Company wanted the unilateral right to change starting and quitting and shift times without consulting with the Union or me. No position changed. I offered no new compromises. The meeting ended. We agreed to meet on Nov. 22, 1977.

12. On Nov 22, I Tolmach and Gittlin met as scheduled. I proposed as a concession a change in Section 6. I offered to remove certain language in paragraphs one and two and delete paragraph 3 so that the clause would reflect 8 hr day 40 hr week for 1st shift and a 7 $\frac{1}{2}$ hr day ^{35 hr} ~~35 hr~~ week for the night shift if the Company would agree to the 4th paragraph as I proposed. Gittlin and Tolmach said they did not agree to this but said they would consider it. I also agreed to delete 17 A of Section 7 of our proposal as a concession and to substitute Friday for Thursday in C of Section 7. ~~to be~~
The Company however said I would not change

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on overtime (i.e. only overtime after 8 hrs or 40 hrs, only double time for Sunday, only 2 1/2 times for Holidays). Tolmach said he would agree to no discrimination on overtime in 7H but said he would not agree that the steward should be on the job when overtime was performed. In 7I I agreed to add the words "if possible" to the end of the clause. We discussed Section 8. On the number of holidays, neither party changed its previous position. However, Tolmach said the Company agreed to 8B. However Tolmach said that holiday pay could only be paid if an employee worked before and after the holiday. I did not change my position against this. No compromises were offered by either party. With respect to Section 9 of Local 155's proposal Tolmach agreed to 9A; at some point at the meeting or before this Tolmach gave me a typed Section 9. 9A was as in the proposal of Local 155 and 9B was the same as part of 9C of the Union's proposal. B+C of our proposal was discussed although Tolmach would not agree to either provision. I said Local 155 wanted B+C in a clause. Tolmach said he would agree to go along with the AAA on Section 10. Tolmach said that he was going to submit draft of

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what change we agreed to ask company proposals.

~~the~~ in about 10 days. He also said he was going on vacation after he ruled the items to me. Gitter then said he wanted to give 2 new increases. I told him I would call him back. No agreement was made for a new meeting. Tolmach said

he would call me after ^{his} vacation although he did not say when. The meeting ended. Two days later I called Bruce and agreed to let Bruce give an increase as requested.

13. After December 2, 1974 I called Tolmach's office several times. Each time I left a message to have Tolmach call me, submit what he promised, and to continue

negotiations. The ^{secretary} ~~receptionist~~ each time said she would take a message. The next communication I received from Tolmach was a letter dated January 7, 1975 in which was enclosed various contract proposals and language. I read the enclosures.

In these proposals Company had reneged on several items it had agreed to previously. The Company changed its agreement on double time for Sunday work to time 1/2.

The Company changed its position ~~on overtime~~

on giving overtime after 8 hours and just limited

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to overtime after 40 hours. There was no
 no discrimination re overtime assignments
 agreed on Nov 22 included in the proposal
 nor was any notice clause included re
 overtime. In the seniority proposal of the
 UEL Copy, ~~but~~ a clause was submitted
 which differed from the 5 paragraphs of our
 proposal (3B, C D E F + G) which were agreed to as
 modified by Local 455. With respect to
 leaves of absence for death the Copy
 raised a new issue proposing 3 days leave
 from the day of death. An entirely new
 no discrimination clause was proposed although
 "age" was added. Although the Copy
 previously agreed to our proposal is it there
 was no mention of it in the Copy's
 written proposal. On vacations the
 Copy's written proposal does not
 cover 3 weeks vacation after 8 years
 as Tolmach agreed to. With respect to Safety
 and Health no mention was made of
 accelerated arbitration, the 40 hrs provision
 was changed to read "as soon as practicable".
 He changed the language previously agreed to
 after I agreed to modify it with respect to a
 Savings clause (Section 23). ~~Nothing of the~~ No
 wage proposal at all was made.

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~~855~~

14. A week or two later I called Tolmach. ^{I could not reach him on several tries and left a message.}
~~15~~ I told him I was upset as his delay in getting in touch with me. He said he was busy and out of town. I also told him he did not make an economic proposal. He said he would get back to me. I asked him for another meeting. He said he would get back to me. I received a letter from him a few days later dated Feb 3, 1925. He proposed a meeting for Feb 14, 1925 and made an economic offer. He offered medical benefits after 1 year, 25% wage increase and changed his position on vacation to provide for 3 weeks after 10 years (before it had been 8 years).
15. I confirmed the meeting date for 2-14. The office confirmed it for me. However, on 2-11 the office received a message from Tolmach he had to go out of town and would meet on Feb 18 or 19, but had to cancel the 2-14-25 meeting. I could not make the 2-18 or 2-19 proposed dates. I had my office (John 2.10) make an appointment for 2-28-25 with Tolmach. An appointment was made by 2.10 but it was set up for March 3, 1925 at 10 AM.
16. A meeting occurred on March 3; Tolmach, Sch. 4 and I met. Bruce Hittler was present. At this meeting there was

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a extensive discussion on wages. I pointed out inflation, past inadequacy of increase to some employees and his previous wage. Tolmach said he could not really disagree with me. However, he said he was limited to the Company's position as proposed. Tolmach did not increase his offer on wages. At the meeting I asked Tolmach for names and addresses of new employees recently hired. He reminded me that I had not received the job task ^{information} promised me by the Welfare Program of the Company and the reason costs of the Company's plan. Tolmach said he would get it to me. I also asked Tolmach for the 1st time information as to what each employee had received in bonus for the past 4 or 5 years. I needed this information for bargaining on wages. He said the information would be supplied. I made a proposal with respect to the bargaining unit. I modified the Company proposal. I said I would delete our proposal and wanted it to read "This agreement shall be applicable to all production and maintenance employees employed by the Employer ~~including~~ including leaders, pattern and mold makers, dress and to work done by such P.M. employees in or about the Co's shop. But

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excluding " Tolmach would not agree to
"work clause" part of my proposal.
He gave a written union security clause,
which clause is not a union security clause.
Tolmach said he could not agree to the
union's proposal of union shop. My position
was that the proposal was totally unacceptable.
I agreed to the Company proposal on check off at
this meeting. I inquired about the hours of
work clause. The Company proposal did not
cover shifts nor a differentiated on shifts.
After discussion the Company agreed to
the 1st + 2nd paragraph of Union's Section 6
as modified by me. However, the Tolmach
continued to insist on the Employer's right
to unilaterally change hours re starting +
ending the 2nd shift periods. Tolmach
agreed re overtime to Sunday double time
and agreed to I as I modified. ^{Tolmach} He agreed to
nondiscrimination in overtime work but
refused to agree to the shop steward
provision. I proposed that there be 2 additional
holidays to the Company's present holidays.
(the day following Thanksgiving, and the day before
Christmas) Tolmach said he would get back
to me on that. I told Tolmach I would
not agree to his proposed grievance clause; that

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time schedules were not necessary. The meeting ended. At this meeting we arranged to meet on 3-14-75.

17. Tolmach, Gutlin and I met on 3-14-75 at Tolmach's office. I asked again for all the material I had been requesting. Tolmach gave me ^{only} the names of new employees (no addresses) and bonus information. At this meeting I inquired why the Company changed its vacation proposal from 3 weeks for 8 years to 3 weeks for 10 years. Tolmach and Gutlin said they never proposed 3 week vacation after 8 years of service. I pointed out that they talked of 4¢ cost in this regard and did make the proposal according to my notes. We argued about this. The Company would not change its position although leaders always got 3 years vacation (they had service from 10-25 years). I pointed out that only 3 additional employees would be eligible for ^{with vacation} vacation and additional under our proposal and 2 employees would become eligible for the additional week in 3 years. I argued about safety and health points and the employees wanted clean toilets and the Company objected as well as objecting to supply safety equipment, a water cooler. Gutlin refused to budge. He said he did not believe in safety, or in

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did not want to bear the expense of equipment. ~~The Company~~ ^{Within} only said it would supply whatever it had in the past.

He would not even agree to supply a water cooler stating sink water is enough. Nothing else was discussed at this meeting. At the

meeting we agreed to meet on March 26, 1975. On March 26 I met with Tolmach alone.

I again asked for addresses of new employees, their starting dates, their job classifications and rates of pay and for bonuses of employees for 1971 - 1973 and the sick day pay practices.

(At the first meeting I asked for sick day pay information and Tolmach said he would make an offer). I renewed my request for all the other information I didn't receive (person cost, medical welfare benefit and job operations of employees). Tolmach

telephoned the Company and supplied me with addresses, their job classifications, starting dates, ~~rates~~ and bonuses for 1972-1973 explaining that no records were available for 1971

concerning bonuses. The other information

Tolmach ~~also~~ said he would supply. With respect to seniority I proposed that the probationary period for new leaders and layout men I would agree to a 45 day probationary period. Tolmach had

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argued that 30 days was not enough to judge a skilled employee. But he said not agree to 45 days but he said he would talk to Artlin. He proposed a 120 day probationary period in his previous proposals. We also demanded the bargaining unit, hours of work, plant ventilation and death in family leaves of absence. Neither of us changed our previous positions. I also pointed out I could not discuss wage and classification until I got the breakdown on employee job tasks. He said he would supply the information. The meeting concluded. We agreed to meet ^{at 10:00 pm right then and there} on April 18, 1975. I asked for an earlier meeting. Tolmach said he had to be out of town after for the immediate future and could not meet until ^{later in} April. The April 18 meeting was set up by phone by myself. ~~and~~ I do not remember the details. 19. At this meeting Tolmach Schifano and I met. We again discussed the bargaining unit. He said he could not agree upon my classification (work council) and said he wanted the contract confined to the shop at its present address. I expressed a fear of the Company changing addresses. Tolmach said the contract was only for

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the Company at its present address. He said if the Company changed address the contract would not apply. Tolmach proposed 2 other clauses stating he would agree that if plant was shut down or it moved or the Company goes out of business, the Company would agree to negotiate a severance pay. He also said that the Company would agree to a clause whereby it would permit only to subcontract as it did in the past. I said the issue of subcontracting, severance and buying unit must be separate. I said the Company was taking too hard a position on the buying unit clause. The matter was dropped at this time. Tolmach said he would further discuss this. We also discussed my last proposal on seniority (45 day probationary period and notice of lay off), union security, funeral leave of absence, and red priors, and wages. We discussed these matters as I had in the past. I also asked what effective date would the Company want to agree to. ^{Tolmach} He said with the signing of the contract. I said I saw there had been no increases for a very long time. I said I wanted an earlier increase but would wait until the requested job task information

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was given before I could discuss modifying
 our earlier proposal. With respect to the
 other issues there was no change in
 position by either party. The meeting
 concluded. We agreed to meet May 2, 1925
 at this meeting. Tolmach said this was the
 earliest he could meet.

20. At this meeting I met with Cutler and
 Tolmach. They said they could not agree to
 my 45 day probationary period for skilled
 employees because I was not enough time
 to judge a new man since he had to perform
 all skilled tasks before a judgment could be
 made. I argued against this as in the past.

~~But~~ Cutler and Tolmach said they
 could not agree as to vacation period per local
 455's proposal. They never made a proposal
 of their own on this at any time. Tolmach agreed to
 a pro rata ^{vacation} concept with respect to all

terminated except for those discharged for cause.

^{It was not in our proposal} I raised this issue and said that pro rata ^{vacation} pay should
 apply to all terminated employees regardless
 of cause of termination since vacation was
 earned. We also discussed vacation time.

Tolmach said he did not want to be bound to
 3 weeks ^{vacation} at one period. With respect to wages
 we agreed that we differed on field work pay.

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The Copay did not want to have to pay the
 prevailing rate on field work. We met
 on 5-9-75. I subsequently called off
 this meeting. The next meeting ^{I believe} was scheduled for
 5-20-75 between Tolmach and I. I do not
 know if any meeting occurred on 5-20-75. The
 next meeting that I know occurred on 5-29-75.
 Tolmach and I met on 5-29. I don't think
 Githlin was present. This was a short
 meeting. I inquired as to the Copay's
 sick leave practice, injury on job practice
 re pay, safety, and on vacation periods (time to
 take vacation). Tolmach said he did not
 know. I asked him to get answers; he said
 he would try. I tried to discuss journal
 leave. I asked for 3 work days; not 3 days.
 Tolmach would not agree as in the
 past. He added to his proposal. I
 brought up safety re meetings of the Committee.
 I proposed that meetings once per month be
 changed to regular basis. Tolmach said he
 would take this up with Bruce. Nothing
 further was decided. No new date was
 agreed on because of Tolmach's travel schedule.
 Most of these meetings took no more than
 2 hours. Tolmach said he could only
 meet in the afternoon and needed fatigue

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at many meetings. Gittin often cut the meetings short by saying he had to break to beat Traffi. I often asked for lengthening meetings but it was not agreed to.

WV 22. ^{at} ~~Left~~ the 5-29 meeting Tolmach said he would call 5-30 to 6-2 to schedule a new appointment. He did not call. I called on 6-4. He was not in. I left a message for him to get back to me to arrange a meeting. He finally called, I don't know the date, shortly thereafter and proposed a meeting for 6-18. I agreed to this. On the morning of 6-18 Tolmach called and said he could not make it. WV I did not speak to him. I ~~then~~ called Tolmach back. He said he was tied up on other business. We agreed to meet on July 11, 1975.

23. I believe a meeting occurred on that date. I do not recall the details of it at this point since I cannot locate my notes to refresh my memory. I don't recall anything significant happening at the meeting. I recall the meeting was short because I had a funeral to attend that day I believe. I believe we agreed to meet on 7-21-75 at that meeting.

WV WV 24. On July 24, 1975 I went to Tolmach's office.

87¢

I was told by the secretary that Tolmach was not there and he did not expect me. The secretary gave me a number to reach Tolmach. I called her and spoke to him. He apologized that he forgot to cancel the meeting. He said to go on emergency call to go to another meeting. Tolmach said he would call me for a new meeting.

25. Tolmach never called me. I called him a number of times without speaking to him. I left messages ^{on several occasions} and have him return my call. He never did. On 8-12 I sent Tolmach a letter asking him to call to arrange a meeting noting that 3 weeks had passed since the last scheduled meeting was canceled. I received a letter from Tolmach dated 8-18-75 stating he could not meet until 9-3-75. I could not meet that day. I had the office (2.10) call Tolmach for another appointment day. We agreed to meet on 9-11-75.

26. At this meeting Tolmach Bruce Shapiro and I were present. I again asked for the welfare plan, pension costs, sick leave practice, & job operations of each man. They said they would mail me the information. Gitlin said if he felt a guy was not a good off he

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would give such day pay. I said in spite of the fact that the job information was not supplied as yet, I was going to modify our previous wage increase proposal although the offer would not be complete. I proposed: wage increase of 20% for all employees retroactive to 1-1-75. ^{and I said our request was for 1-1-75 and not for 1-1-76} Tolbach said he would get back to me after considering it at the next meeting. A new meeting was scheduled between us for 9-29-75.

27. Starting at one of the 1975 meetings, perhaps in May, I modified my vacation proposal. I dropped the request that Indys come under the Vacation Trust Fund, and Indys could have its own vacation plan as follows: 1 week after 1 year; 2 weeks after 2 years and for employees over 2 years of service 1 day for each year with a maximum of 5 weeks of vacation. This would take the Employer out of the vacation fund. Tolbach said he would study this. At a subsequent meeting Tolbach said the Company would not budge from its previous proposal (3 weeks after 10 years service). Also starting in the spring of 1975 the Company submitted new contract language.

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28 On 9-29-75 I had to cancel the meeting because of an emergency. We agreed to meet on 9-30-75 at 2:00 PM. Went at that time. Bruce Tolmach and I were present. The meeting lasted 5 minutes. Tolmach said a declassification petition was filed. Thus, he said he could ^{not} further bargain because of the petition. I left. In the morning of 9-29-75, the information on job operations arrived at my office by mail together with names of new employees. There were no further meetings or contact with the Congress after this.

29. Employees including Paul Musisi ~~and~~ and Luis Musisi ~~have~~ have told me that Melgo gave wage increases every January. The increases differed every year. They were general wage increases every year. However none was given Jan. 1975.

30. The Petitioner is 29-RD-203, Sogho. ~~he~~ is a periodic employer of employees. Jose Tonsant and Miguel Hernandez, a previous employee, told me that Sogho is somehow involved with sculpture work (steel sculpture in parks etc) in the design. Maybe once per week he does paper work also. According to Miguel and Jose Sogho has been around 2 years. Sogho's name was not submitted to me by the Congress.

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Joe told me Sogha was going and saying
that we cannot get a wage increase and
that we had to get rid of the union.
That is all the information I have on the
disruption petition. I was told Sogha is
not the same as other employees.

11/1/75

X William Clark

Sworn before me this 14th
day of November 1975

Notary Public State of New York
No. 60:9399000
Qualified in Westchester County
Brian Andrew March 28, 1976

John D. Gato

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Rej's Ex 3 Fort 14 Ev.
M 3/30/76

Co. Proposed on our vacation.

at 10:00 PM

at 10:00 PM for the 1st time. 10:00 PM can be reached.

at 10:00 PM for the 1st time.

at 10:00 PM for the 1st time. 3-14-75

5-2-75

Partitions - concept of developing - ability.

- Vacation - Period - No -

Col. Prop. for rate of 10% of discharged for cause

✓ Requires to take 10% who - C.G.

at 10:00 PM for the 1st time.

at 10:00 PM for the 1st time.

21 - 10:00 PM for the 1st time; Rate - 10%.

22

5-2-75
at 10:00 PM for the 1st time.
at 10:00 PM for the 1st time.
at 10:00 PM for the 1st time.

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Wagon
Wing
Panel

Reason
Voc. Band
S.L.
S.L.
T.F.
Alternative Pay
min. rates

Rog's Ex of Ration EU
M 3/30/76

#14

Av. 4.05

Range

Fr. 5.62 - 5.75	(2)	8.00
Fin 4.50 - 4.90	(3)	7.40
Med 4.10 - 4.50	(7)	6.70
Qtr 3.25 - 3.75	(1)	5.00 (4.70)
Half 2.50 - 2.75	(3)	5.00 (4.10)

Vol. av. = 2.25 min. pay = 4%

1st Meet - Aug. 2 - at lawyer - Bure, Tomach, B.E.

Gen copy of Contract -

- 1. Bill for his operation fees

- " about T.D. Driftman etc - said then he changed

- 3 bills for fuel & trucking -

- 7. Pens. Waf. copies & cost.

- 5. Pens. Waf. -

6. Waf. where gun used couple of years.

Tomach said he needed a doctor before in mid April

Bure asked for copy of contract which I provided to him the next day. He asked for a copy before D. Tomach called back - He said he was going to be - suggested Sept 9, 2nd

Tom - Kille - was 10,000 outside of the area

... ..

-877

Y 6.0
Sept 9-74

123456
17, 23
Pm 1, 2, 12, 14, 15, 20
14, 2, 11, 13, 15, 20

1. 100% water Paper 100% 100% 3

1. From?

1. OK 100%

1. OK

1. authentication (check the internal)

1. ? internal - 100% 100%

1. 100%

1. 100%

1. 100%

1. 100%

1. 100%

1. 100% 100% 100%

1. 100%

1. 100%

1. 100%

1. 100%

1. 100%

1. 100%

1. 100%

1. 100%

1. 100%

1. 100%

BEST COPY AVAILABLE

1. Centric Z.

2. Infr. mte - ^{opertine} ~~disjunct~~ - ^{into a single qu. p.} ~~was more last 970.~~ ✓

2-3 Mm.

Pat. - ~~leoman~~ - ~~elder, Polids, sawops.~~ Bk of. ~~Shen, Fok left, Marit, back~~
Infr. mte - ~~red drawing~~

~~Pat. Lns.~~ - as above except Fok left, Shen, Bk.

~~Chenels~~ - as ~~his~~ (does'nt understand drawing)

~~Roco~~ - ^{as Pat} ~~same~~ ^{supp. - ve.} ~~hulls~~ - L. 0 for 4-5 (from)

~~Nigel~~ - ~~forward~~ ~~leoman~~ on Shen. ~~lost~~ ~~subst.~~ as ~~red~~ ~~same~~ as Pat

~~John T.~~ - ~~Back~~ ~~at~~ ~~up~~ ~~&~~ ~~gentle~~. Fok left - - ~~help~~ ~~on~~ ~~Shen~~.

~~Bernard~~ - ~~same~~ ~~as~~ ~~Roco~~ ~~as~~

~~Paul Muri~~ - ~~same~~ ~~as~~ ~~Pat~~ ~~except~~ ~~no~~ ~~well~~. (is ~~4~~ ~~in~~ ~~2~~ ~~from~~ ~~Pat~~.)

~~Pablo R~~ - ~~same~~ ~~as~~ ~~John~~ ~~with~~ ~~with~~ ~~Shen~~

~~Gabriel~~ - ~~helper~~ ~~on~~ ~~Shen~~ ~~Paul~~, Bk

~~Ed. Polka~~ - " " " "

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II

IV D - went to meet

VI will appear. var. sched. (Tim will co.)

VII

VIII operation. "A" -

IX 3 min

X no

XI

XII - 2 p

XIII

XIV

XV - will make.

XVI 47 ie me -

$$\begin{array}{r} 116 \\ 116 \\ \hline 232 \end{array}$$
 C. 116 per hr.

XVII

XVIII will do something

XIX - T.E. Pass - 1/1 content

XX am "

XXI locate - per p 230

XXII 3rd 10/20 - 230

880

Oct 16 1 30

Oct 17 - 2 10

Oct 17 - Dear Sam

Given us 3 classes.
Oct 17 - 2 30 P.M.

Bring in - 1 letter to last sentence -

Present - success -

Recogn - ship hold till I -

Hangman! H -

4 - employees should (in a letter should you want to for) for the

5 - will consider but please for a to the next

6 -

7 - notes (very 2 weeks)

5 -

8 -

9 - ^{pro} judge as can - what a keep

10 -

class not
attitude of IT used.

with some notes -
Oct 17 2 30

11 - not change in reply

13 - paper - change for C' in

Oct 4 - 2 30

Key 5 Key 3 10KTC WVR
T. 3/31/76

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Nov. 4-74 - Dave Trench
B.C.S.

Money came all holiday, funds, vacation, wages (and equity pay, coffee)

- 13 - B. E. on there now good to push the work - just -
B - 'upto 30" Co proposed
Co #6 - held
B - guests re jumping new guys who have higher skills - Co

OK. un. D' promise re guide for work in front.

OK un. E' upto 10 w. D.

OK un. F OK.

OK un. G. ✓

- H held until class is worked out

- I held until Bruce -

14 - done it with an asterisk. 6 hrs. (hypnagogic)

& jumped to me to class

un B' OK

C' OK first jump

— 2nd jump held ✓ with Bruce -

D' except first re & no extra class - and OK.

15. ✓ ABC - OK except for app.

- E - D is out

16 Co will move attempt - at least 3 wks -

B' - held

F' held - get into class

11/17 official (as is)

18 [accidental architect - (proposed)]
signature: [unclear]

19 - OK except for [unclear] related to union representation

20 held.

22 - out

23 - OK

882

Resps Ex 6 FOR 12 14 cv.
by 3/31/76

9m. 12-74- $\frac{C_0}{AC} - DT.$ $\frac{m}{AC \cdot T \cdot S}$

~~226~~ Be NS. 8 m after 172 1.772 .07

27-1

16 3rd of (Scheduled with prof much complex) / 1/4 red parties at d i pay by 12-10 etc
24 25 wages

Presumably. Co. want. to be for to sell - at this time -

Bang. 1. Prunella (various, 'our own' etc.)
1. Prunella - Prunella - Prunella

1. Put cement - tied - with wire
 2. APL
 3. Sheet
 4. Shaps -
- un + bry - That the first -

4. stops -
with budget - That's the fourth -

Int. 2. Unper to give 3 each from 1st batch / 100 this.

Ques. 2. Unfair to give such power to labor,
to Reg. 3 [Plant clinics] not - (costs of attention & maintenance of the union sent)

Union Sec. 4 ^{CO} ~~CO~~ should have ~~to~~ decide if they want to give if union companies
C gives to C_o, something

C. gives to C., something.

Sec. 5. AOK except. 10th day the change to 1st day

B. not to last line - [present] after Anthonysgate. then shall be
a 10 day withdrawal period. and continue "as the C agree"

It -

C - resolution - mit 'de company or to'

Set 6. As doc 1 + want change their position -

✓ 2nd 11-26-60 change

2-amps A-

'C' - mm

~~Comp~~ 2x on Sunday -

Ans. 1) water phase

Comp. H. • 10 except 17th

✓ I OK add of pres.

✓ chm.

$\chi(B \cap K)$ Co will play this when we fill 50%
only concept of 'B' $\frac{101}{102.5}$ 101

c. 2nd -

I am agree -

6

9. C agree to GA
 . plus 7 D which is C's

ca. 1914

800 (20000)
20000 100

883

10. C ^{you} A A A

Wk after next mail is changes made - (12-2-74) wk. 1
Dave is going on vacation

. B.C. to call Bruce on 2nd week - on 11-25-

He wants to see - possibly - wants to see next

4th 7th Time - he said that, our position & we do it with any change

6, 7, 8, 10, 11,

884

Call to Toward 29
has been out 17 hrs 2 days
will not be back till
Fri

1975		JANUARY			
MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT. / SUN.
NOTES		1 New Year's Day	2	3 Autoproduct	4
					5
8 STAFF Kissell Mann	7 7:00 John Wilcox	8 Raydon Smith org chairman STCW	9 11 Pomeroy	10 Schjano det J. Zula - contact	11 Cont Gen. Dine
					12
13 rain - Mark Hiro	14 Cassett Bellingham	15 Krygerman not in office leave office again	16 Kassis Corbitt work Racoon	17 Autoproduct Gen. Dine Canting - work etc	18 Gen. Dine
					19
20 Computing	21 Krasner Talm Doh	22 Tony Schjano Library - Special Exec	23 Fleary Library in Mills 4:30 - home Fleary	24 Autoproduct	25 Gen Dine
					26
27 Autoproduct	28 8:30 HN Bressini Wanderer 11 Sleep 2	29 Gen. Dine Shy, quiet late	30 Autoproduct 10:30 - 11:30 AM 8:30	31 3:30 Gen. Dine M-M.	

 ROSA'S EX 7A
 Jan 3/31

588

1975				JUNE	
MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT./SUN.
NOTES					1
2 Albany D.T. was to call - didn't	3 for Jan McFinnin City - Lake Day	4 called D.T. not in left spec. message	5	6 allied	7
9	10 Truett	11 allied rewards -	12 wonder	13 allied	8
16 Duke. case	17 2nd McNamee 1199 - New Credit	18 7:00 ST/H allied spec	19 3:00 Phil he called off	20 7:00 ST/H allied special & Thomas Chel	14 Flag Day
23 Int. Ch. Kaufman	24 3rd Steel Kaufman Wander Belle	25 John Troy 6:00 ST/H 7:00 Troy 8:00 allied Wander	26 5:00 Kaufman 6:00 Smith 7:00 Kaufman 8:00 Kaufman M.A. 2:00 Kaufman	27 Kaufman allied Smith M.M. 2:00 - 3:00	15 Father's Day
30 D.T. case					21
					22
					28 7:00 Kaufman
					29

1975

JULY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT./SUN.
Ind. Book - 9-12 Mach Hypn. 10 Office - 10 Fiber Grooming	8:45 RA Mach 7:00 Hypn. 10:30 T. 10:30 Stage and com.	2 B. 10:30 Hypn. 10:30 Hypn. 10:30 Hypn. 10:30	6:45 3 Smt 9:10pm. Bark Keller (Hypn.) 20	Ken - 5:16 - CE 4 56:13 Independence Day	5 6
8:30 B. 10:30 (Cupel)	8	9:30 Julia Smt 10:30 - Dial Wanda 10:30 Smt 10:30 M.	10 Smt 10:30 Jut 10:30 3:00 B. 10:30 NAV -	11:45 B. 10:30 Office Miles 10:30 Keller	12 F. 10:30 13
14:10 Smt Hypn. - John 3.	15 F. 10:30 - 10:30 Assoc. - 10:30	16 Lib (B. 10:30) Hypn. 10:30 Hypn. 10:30	17 4:00 - 10:30	18	19 20
21 9:30 Smt.	22 7:00 - 10:30 5:00 Lib - Hypn. 10:30 Hypn. 10:30	23 10:30 - 10:30 23:00 B. 10:30 Smt 10:30 10:30 - 10:30 Hypn. 10:30	24 Michael 2:00 - 10:30 Miles 10:30	25 9:30 Smt 10:30 M.M.	26 27
28 B. 10:30 Smt - 3:30 Shop meet	29 Smt 10:30 Hypn. 10:30 Hypn. 10:30 Hypn. 10:30	30 10:30 Smt 10:30 Hypn. 10:30	31 9:30 Smt -	NOTES	

988

188

AUGUST						
MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT./SUN.	
NOTES				1 Feb 2.6 ¹⁰ Rmt 9 ¹⁰	2	
				shop. met.	3	
4 Melkey & Ken John Z Smt Ry Contract Shop. meet HMK	5	6	7 4 ⁰⁰ NCRB Rmt Autopod	8 office Libary on NCRB Can Inn	9	
					10	
11 846 Ken Belmore 10 ⁰² ST. Made Braggi ST. James	12 Bureau John F. Pate Office	13	14 1 ⁰⁰ Smt Autopod -	15 2 ⁰⁰ Smt Harker - Autopod	16	
		ST. James/Hut			17	
18	19 Autopod Ind. 2 ⁰⁰ Callig Belle Wanda & Lundgren	20 Smt - 9. Mack & Son Libary Callig Belle HMK	21	22 Belle Lit HMK M. M. W. Harker & Son	23	
			24			
25 Melkey - Spigner 2 ⁰⁰ Shaton off. room TW 6-2726	26 10 - codes can - Office Lib called Tolson.	27 Be. Mital staff.	28 ind. med. allied Office	29 Fed Med allied 10 ⁰⁰ Don car. - B. M. W.	30	
					31	

888

revised C.B.A. ^{agreed}

3-3-75

Notes for Names add. work descript

Boxes - 7 all

- 1 - we proposed dropping the 1st sent - dropped Ph. address - 2nd sent E add
- 3 - ^{re - to work done etc} ~~names will drop out~~ - ~~Ph. address~~ - ~~class~~
- 4. ~~names removed~~ - ~~gave us a class~~ - ~~we argued~~

in EU.

Rept's Ex 8 Fort 2 -
Dec 3/31/76

015 - as company proposes

1st [✓]OK - sent open re mutual

D - surely OK

1st [✓]OK - ^{re} ~~sent~~ sentence re mutual

✓ OK as i poss

last sentence of Re OK

Pages 2 add. w/ DAT & DBX names.

will examine

3 - 5 - ~~names~~ 43 Temp

889

3-14-71

21 response on
1, 8, 9, 10, 12

5. ABC ✓

propose 1 day free up after 2 - Top but.
need pro rata
get if Term from reason

✓ need one AMU - 4 45 hrs vs 48 hrs
propose ab. in 3 days / re A ✓
C & I) was agreed to in Part
B is open D. with 10 hrs & 10 hrs
[20 hrs, 30 hrs, 40 hrs, 50 hrs, 60 hrs]
was agreed but needs understanding
was not related to work

pay during working hours - per.
check on per.
check loading - per.
8 yrs records per.

propose - 7-1-74 - 7%
1-1-75 - 80%
7-1-75 - 7%
C. 64 - 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 64, 66, 68, 70, 72, 74, 76, 78, 80, 82, 84, 86, 88, 90, 92, 94, 96, 98, 100

working paper

open -
Pursuant to 12

- 1. on proposal requires his report
- 2. last sentence open (minutes)
- 7. BEA has - A man

3 at O.T. C. I.
had. 100% 100%
min. 100% 100%
no OT at 100%
✓ ✓ 100%
no disruption

8. only had 100% of B OK
A at 100%.

✓ B) ✓
C) eligibility (req. 100%)

9. over A ✓

B open will respond

C. Cell - 100% 3 hrs.

d. Subsequent 100%
F. 100%

10. only A at 100% OK.

A - 100% 100% 100%
" 100% 100% 100%

B. Processing 100%.

11. A refusal to 100% 100% 100%.

B. 100%

C. 100% 100% 100%

d. 100% 100% 100%

e. 100% 100% 100%

✓ 12. OK - 3. 100%.

13. A OK (except for 100% 100% 100%)
B OK as mod. (except last 100%)

C. work of lower 100% 100% 100%.

✓ D OK. 100% 100% 100%

✓ E OK as mod 100%

✓ F OK - 100% 100% 100%

G. 100% 100% 100%

H. 100% 100% 100%

I. 100% 100% 100%

J. 100% 100% 100%

K. 100% 100% 100%

L. 100% 100% 100%

M. 100% 100% 100%

N. 100% 100% 100%

O. 100% 100% 100%

P. 100% 100% 100%

889a

- 4-15-75 Tolman, Tony, BC.
 Money control Tony Tolman - Parkland
 1. 15% - Bonus etc. - new share note
 holidays
 vacation -
 he was attracted to -
 2. H1 - Bony. he proposed Ted in with Severance
and content
 3. ^{#13} Propose on 30 - 45 for kitchen - £1 day notice.
 4. Fight for very security clause -
 5. H14 - re 2 year leave -
 6. 18 -
 7. Paul Pines - work up - dispute

5-2-75

- equivalent
 all submitted - However - no submitted on under normally performs etc.
 in on h. O.
 #20
 1. Severance - get a proposal -
 #21
 1. Bonying (- to work normally) - - -
 #1
 2. 13 & 14 - Bonying (- to work normally) - 3 day notice
 or after vs. from
 3. 9 - do was supposed to report on B (on C. Co. proposal) - Bonying -
 paper - on Bonying vs. 15. - if after does not have house or travel & Bonying to going
 in Profit
 4. 16 - proposal T of 5 sub (million notes)
 vac. Period
 request to
 paper
 by transmitted
 for notes
 5. 18 - meeting for meeting -
 Toilet & wash room
 long open & avoid my OSHA.
 get to practice on W. Smith, John, Zoffler, equip. done -
 6. 21 - get history of what it did on intellectual pay, paper a paper,
 7. 22 - 1m. after 4. continue the paper (paper as paper) of paper
 - 26. Copy 7 BC 05 then
 8. 24. Paper - 7-1-74 - 7%
 1-4-75 24/10
 7-1-75 7%
 C. Ch. 1-1/1, 24 340
 class E. H. notes -
 - 28 - End C. S. L. Policy -

890

3-26

get names - address - start dates - class, rate, pay -

get list of books for all exp 1971 on

get pictures on pay in sub days

get copy of R. C. D. P. - 6 copies (47 in all) ?

get copy of pension ?

sol - questions of exp

= list on answer

1/2 =

6. mutual

13 - 4 day printed copy [from - 40. man

14 - add - 20.

24 -

891

Page 3-3-71

1. And the work done by each of the 4 men is
2. use over 100 + 100 = 200

12 - Tony - Donald - (paper)

Respy Ex 2 Fort 2 in EV
M 3/11/76

3/3

COUAVITO
COP 20 THU

893

R. LOSPINO	LEADMAN	BURMAN	SHEALMAN	STAFFETT MAN
B. F. F. F. F.	"	"	"	PUNCHMAN
J. TOUSET	"	"	"	"
P. RIVERA	"	"	"	FORKLIFT
E. ROLDAN	"	"	"	"
P. MUSSI	"	"	"	FORKLIFT
C. FOTI	POLISHA WELDER	SHEAL HELPER	BLAKE HELPER	
P. SALVA	"	"	MECHANIC	MAINTENANCE LEADMAN
C. BALDASSARE	"	"	"	"
R. BRUNY	"	"	"	"
S. GUELLIER	"	"	"	"
M. ROMAN	"	"	"	"
E. GONZALEZ	PUNCHMAN	BLAKE HELPER	SHEAL HELPER	FORKLIFT
J. VILLEWAS	"	"	"	"
A. RUBINSKI	MECHANIC	BLAKE HELPER	"	"
P. MUSSI	"	"	"	"

Proposed by E. L. U. on 7-20
(Submitted by E. L. U.)

894

Respl's Ex 11 RRTG.
By 3/3/56 1460

SECTION

RECOGNITION

The Company recognizes the Union as the sole and exclusive bargaining agency for the purposes of bargaining in respect to rates of pay, hours of work and conditions pertaining to employment for its employees in the bargaining unit as the term of "bargaining unit" is defined in Section _____, pursuant to Board certification dated January 20, 1972.

SECTIONBARGAINING UNIT

The following employees at the Employer's place of business located at 520 Morgan Avenue, Brooklyn, New York, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All production and maintenance employees employed by the Employer at its Brooklyn, New York, location, including leadmen, pattern and model makers, and the driver, but excluding office clerical employees, guards and supervisors as defined in the Act.

SECTION

896

MANAGEMENT RIGHTS

(A) The Company retains the exclusive right to manage the facility and to make any decisions affecting the business, whether or not specifically mentioned herein and whether or not heretofore exercised, including, but not limited, to location of operations, reasonable work method standards, types of equipment to be used or materials purchased or sold, and this exclusive right includes the right to hire and determine the number of employees in the facility or a department, including the number assigned to any particular work, to increase or decrease that number, to direct and assign their work, to establish new job classifications and job content and qualifications and wage rates heretofore, to determine the reasonable work performance levels and standards of performance of the employees, and to require the use of safety devices and equipment, to discipline, lay-off, discharge, suspend, transfer, promote and take any action considered necessary to establish and maintain efficiency and discipline.

(B) Any of the rights, power or authority the Company had when there was no agreement are retained by the Company and may be exercised without prior notice to and consultation with the Union, except those specifically abridged or modified by this Agreement and any supplementary agreement that may hereinafter be made.

(C) The Company shall have the right to post reasonable plant rules and regulations after discussion with the Union.

(D) This Section shall not abrogate or nullify any rights specifically provided for in this Agreement.

SECTIONNO DISCRIMINATION

There shall be no coercion, intimidation, or discrimination on the part of either the Company or the Union, or their respective agents, officers, or members, against any employee employed at this plant for reasons of age, race, sex, color, religious belief, national origin, Union membership or non-membership* *IN ACCORDANCE WITH EXISTING PLANT & STATE LAWS.*

The amount of work a member of the Union may perform, shall not be restricted or interfered with by the Union or its officers or members.

SECTIONPAY DAYS

The Company agrees to pay the employees on a regular stated pay day in each week by check at end of day.

When an employee is laid off or discharged, he shall be paid off immediately by check. The Company is required to install a time clock and time cards in order to keep proper record of employees' time worked. The Company must keep time cards and all other payroll records available in accordance with existing Wage-Hour Laws.

SECTIONHOURS OF WORK

Five (5) days, eight (8) hours per day, shall constitute a standard work week for regular full-time employees, but in no way shall this constitute a guarantee.

The regular starting time and quitting time of each employee may be changed by the Employer.

900

SECTION

OVERTIME PAY

Time and one-half shall be paid in each of the following instances:

- (A) All work performed in excess of forty (40) hours in any one week.
- (B) All work performed on Saturday or Sunday.
- (C) All work performed on any recognized holiday as provided in Section _____ of this Agreement.
- (D) Employees shall be required to work a reasonable amount of overtime, as requested.

e) No PYRAMIDING OF OVERTIME

901

SECTION

REST PERIODS

There shall be one rest period of ten (10) minutes' duration, which shall be granted during the first half of each shift. Employees who work two (2) or more hours overtime shall be granted a fifteen (15) minutes rest period during the overtime period. During each of the aforementioned rest periods each employee shall be paid the applicable hourly rate, and no work shall be performed during such periods.

902

SECTION

SENIORITY

Seniority shall be defined for the purpose of this Agreement as the net credited service of the employee. Net credited service shall mean continuous employment in the Company beginning with the date and hour on which the employee began to work after last being hired, less deductions for leaves of absence, lay-off, illness and injury.

(A) Seniority and ability shall be considered in case of recall. Seniority shall apply to a job only where ability to perform the required work and contribution to the over-all efficiency of the operation are equal with respect to two employees in the sole opinion of the Company. In determining "ability", the Company may take into consideration employees' work attitudes and habits, punctuality, attention, reasonably continuous presence on the job and careful workmanship.

(B) An employee shall lose seniority and seniority shall be broken for any of the following reasons:

1. If the employee voluntarily resigns.
2. If the employee is discharged and not reinstated.
3. Failure to report to work after a layoff, within five (5) days from a written notice of recall sent by the Company to the employee at his last address of record on file with the Company.

CHANGED TO UNION ①
Absence from work for a period of three (3) consecutive working days without notifying the Employer.

5. Failure to report to work at the expiration of a leave of absence pursuant to this Agreement.
6. Absence as a result of illness or accident for a period in excess of one (1) year, unless extended by agreement between the Union and the Company.

7. Lay-off or leaves of absence in excess of the following periods of time:

30 days for employees having up to six (6) months service.

60 days for employees having from six (6) months to one (1) year.

180 days for employees having more than one (1) year of service.

(C) An employee whose seniority is lost for any of the reasons outlined in (B) above, shall be considered as a new employee if he is again employed by the Company. The failure of the Company to rehire said employee shall not be subject to the grievance and arbitration provisions of this Agreement.

(D) In the event the employee is offered another job by the Company outside the bargaining unit and the employee accepts such job and leaves the bargaining unit, such employee loses all of his seniority rights under the terms of this Agreement after sixty (60) working days.

(E) The Company has the right to reduce the length of the workweek instead of resorting to layoff in accordance with seniority.

(F) It shall be the sole responsibility of the employee to keep the Company informed of his current address and to notify the Company at once, in writing, of any change of address.

(G) This Section shall not apply to lay-offs of two (2) weeks or less. In such cases, the Company's decision shall govern.

904

SECTION

HOLIDAYS

(A) The Employer agrees to pay all regular full-time employees, who have passed their probationary period, ^{THE FOLLOWING HOLIDAYS} eight (8) hours' pay at his regular straight-time hourly rate, for the following holidays:

NEW YEAR'S DAY
WASHINGTON'S BIRTHDAY
LINCOLN'S BIRTHDAY
MEMORIAL DAY
JULY 4TH
LABOR DAY

COLUMBUS DAY
VETERAN'S DAY
THANKSGIVING DAY
CHRISTMAS DAY
ELECTION DAY (½ DAY OFF)

(B) To qualify for holiday pay, an employee must work his scheduled work day immediately preceding and immediately following the holiday or be excused from work that day.

(C) An employee shall receive holiday pay if he is actively employed and is not on layoff status or on leave of absence, and otherwise fulfills the eligibility requirements of this Section.

(D) Employees who accept a holiday work assignment and then fail to report and perform such work, unless for justifiable cause, shall not receive pay for that holiday.

(E) A paid holiday shall not be counted as hours worked for overtime purposes.

905

SECTION

VACATIONS

(A) All employees who have been continuously employed for a period of the following shall receive:

- 1 year 1 week
- 2 years..... 2 weeks

(B) In order to be eligible for vacation, an employee must be employed on the payroll during the two (2) weeks preceding the start of the vacation period. If an employee has been employed less than one (1) year, his vacation will be prorated based on the number of months the employee has been employed.

(C) A vacation schedule shall be posted in the plant not later than May 15th of each year.

(D) A week's pay for vacation purposes, is defined as the average weekly pay, excluding overtime, an employee received based on the four (4) weeks immediately preceding the employee's vacation.

(E) An employee shall receive vacation pay during the week preceding his vacation.

~~(F) If a holiday occurs during the employee's vacation, the employee shall be entitled to holiday pay in addition to his vacation pay.~~

SECTION

906

REPORTING PAY AND/OR ALLOWED PAY

(A) Any employee ordered to report to work by an authorized Representative of the Company and who is not put to work, or who shall have appeared for work on a regular work-day without previously having been informed by an authorized Representative of the Company not to report, shall, if able and willing to work, be paid for four (4) hours at the applicable rate for such day.

(B) Any employee injured at the Company's plant, who is sent to a doctor and returns to work during his or her regular working hours the same day, shall be paid by the Company the applicable wage rate for such time thereby lost on such day by such employee. Should an injured employee be admitted to a hospital or be instructed by the Company or the doctor to refrain from performing further work on the day such employee is injured, such employee shall receive the applicable hourly rate for the entire workday. IN ADDITION AN EMPLOYEE REQUIRED TO ~~be absent~~ ^{ATTEND} a compensation hearing

907

SECTION
LEAVE OF ABSENCE

(A) Leaves of absence without pay shall be granted by the Company to any employee (except probationary employees) without prejudice to the employee's seniority or other rights. All approval of leaves of absence shall be made in writing which shall be signed by a designated representative of the Company and a copy given to the Shop Steward for the Union, copy of which shall be furnished the employee and the Union. Leaves of absence will be for a period of not more than thirty (30) days; however, it may be extended upon request by the employee, subject to the approval of such request in writing by the Company, signed by a designated representative of the Company and the Shop Steward, copies of which shall be furnished the employee and a copy mailed to the Union. Only one (1) employee shall be granted a leave of absence at any one time under this sub-section.

7 (B) Any employee employed by the Company who is elected or appointed to an official position with the Union, which requires that he or she discontinue employment with the Company in order to perform the duties of such position, shall be granted a leave of absence, in writing, signed by a designated representative of the Company, for the period of such position, including any renewals thereof.

Only one (1) employee shall be granted a leave of absence at any one time under this Section. If an employee has an official position with the Union, he shall be permitted time off to perform duties without pay and only one employee at any one time under this Section.

union 1 ✓

(C) The Company shall give employees time off with pay to secure a renewal of any license which is necessary in connection with his work. The Company shall also pay for the cost of such renewal.

(D) Obtaining or seeking other employment while on leave will automatically terminate employment with the Company.

(E) An employee who, due to the death of his parents, spouse, children, brother, sister, mother-in-law or father-in-law, loses work scheduled for any day up to a maximum of three (3) days (from the day of death through the day of burial, both inclusive), shall be given leave for each lost scheduled work day within such period with pay at the rate of eight (8) hours straight time at his base rate for each day of such leave.

SECTIONGRIEVANCE PROCEDURE

A grievance is defined as a difference, dispute, complaint or misunderstanding regarding wages, hours or working conditions arising out of the written provisions of this Agreement and during the period this Agreement is in effect.

Any such grievance shall be settled in accordance with the following grievance procedure:

(A) The dispute or grievance shall be taken up by the Steward (within three days from the time of the occurrence that gave rise to the grievance), the aggrieved employee and the foreman of the department involved. The foreman shall render a decision by the close of the working day if handed in before noon, otherwise by noon of the following working day. An employee may file and process his own grievance as long as the adjustment is not inconsistent with the terms of the contract.

(B) If no satisfactory settlement is reached between the Steward and the foreman, the grievance shall be reduced to writing. The designated Union officer shall then investigate, present and discuss such grievance with the designated Company official within three (3) working days.

(C) If no satisfactory settlement is reached within three (3) working days under Step B, the designated Union officer shall call in the Business Representative and he shall meet with the designated Company official.

(D) In the event the grievance or dispute is settled, such settlement shall be reduced to writing and copies distributed to all persons involved. In the event the grievance or

dispute is not settled in a manner satisfactory to the grieving party, within five (5) working days from Step C, the grieving party has the right and authority to submit such grievance or dispute to arbitration in the manner hereafter provided.

(E) Failure of the Union to process the grievance within the specified periods of time shall result in a forfeiture of said grievance.

(F) Grievance meetings shall not be scheduled during working time.

SECTION

911

ARBITRATION PROCEDURE

In the event the grievance is not settled under the Grievance Procedure, the Union may, within ten (10) working days from date of receipt of the Employer's decision, at the last step of the Grievance Procedure, submit the grievance to arbitration, pursuant to the rules of the Federal Mediation and Conciliation Service.

(A) The Union may request the Federal Mediation and Conciliation Service to furnish it and the Employer with identical lists of persons eligible to serve as Arbitrators. Failure of the Union to make its request within the said ten (10) working days, shall result in a waiver of the claim.

(B) The parties may mutually designate the Arbitrator. If, however, within fifteen (15) working days from receipt of the original lists the parties shall fail to agree upon a single Arbitrator, either party may request the Federal Mediation and Conciliation Service to submit an additional panel. If, after the submission of a second panel, the parties fail to agree upon the designation, the Arbitrator shall be appointed by the Service.

(C) The Arbitrator may consider and decide only the particular grievance presented to him in a written stipulation by the Employer and the Union, and his decision shall be based solely upon an interpretation of the provisions of this Agreement. The Arbitrator shall not have the right to amend, take away, modify, add to, or change any of the provisions of this Agreement. In deciding the issue, the Arbitrator shall not consider the affect his award would have

upon employee morale, or whether employee tensions will be heightened or diminished. The Arbitrator's decision shall be final and binding upon the parties.

(D) The Arbitrator shall have the authority to order or deny reinstatement of an employee, with or without back pay, in whole or in part. Employees who have been discharged or suspended shall have the duty to seek work so as to mitigate the claim of back pay. Their failure to do so shall be considered by the Arbitrator adversely to the claim for back pay of such employees.

(E) The cost of arbitration, which shall include the fees and expenses of the Arbitrator, and an original of the transcript where mutually agreed upon, shall be borne equally by the parties. Each party shall pay any fees of its own representatives and witnesses for time lost, and the cost of the transcript where there is no mutual agreement to order it.

SECTION

NO-STRIKE CLAUSE

(A) During the life of this Agreement or any written extension hereof, the Union on behalf of its officers, agents and members, agrees that so long as this Agreement or any written extension hereof is in effect, there shall be no strikes, slow-downs, walk-outs, sit-downs, picketing, boycotts or any activities which interfere, directly or indirectly, with the Employer's operations or the sale of its products for any reason.

(B) Any employee who violates this provision shall be subject to disciplinary action, including discharge.

(C) A suit for damages alleging the Union's violation of paragraph (A) shall not be subject to the arbitration provision of this Agreement.

(D) A claim by the Company that the Union has violated paragraph (A), except as provided in paragraph (C) with respect to damages, may be submitted by the Employer to arbitration pursuant to the provisions of Section ____ (Arbitration Procedure) and the rules of the Federal Mediation and Conciliation Service. The grievance shall be submitted to arbitration within ten (10) working days of its occurrence. Failure to do so shall result in a waiver of the claim.

(E) In the event an employee is continued in employment after the termination of a strike in which he has participated in violation of this provision, he shall not be entitled to any accrued wages during the period of the strike, nor to

any fringe benefit contained in this Agreement which may have accrued for his benefit during the period of the strike, nor shall he, for the duration of the strike, accumulate seniority or length of service for any purpose under this Agreement.

(F) During the term of this Agreement, the Company agrees that it will not institute a lockout of its employees.

SECTION

915

PLANT VISITATION

The Union's representative may visit the Company's premises at ~~reasonable times~~ for the purpose of investigating working conditions or facts relating to any grievance or conferring with the Company. The Union representative must first ^{notify the Company} ~~call the factory manager for an appointment~~. The Company will not unreasonably deny visitation privileges; and such Union representative shall conduct himself so as not to interfere with the work of the employees.

916

SECTION

BULLETIN BOARDS

The Union shall have assigned space on the Bulletin Boards for the posting of notices. All such notices shall have the approval of management before posting and such approval will not be unreasonably withheld. Such notices will be restricted to the following:

- (A) Notices of Union recreational and social affairs.
- (B) Notices of elections of officers of the Union, appointments, and results of Union elections and financial matters.
- (C) Notices of Union meetings.

917

SECTION

SCOPE OF BARGAINING

The Company and the Union acknowledge that during the negotiations which resulted in this Agreement, each party had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Company and the Union, for the term of this Agreement, each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter not specifically referred to or covered in this Agreement, including fringe benefits, even though such subject or matter may not have been within the knowledge or contemplation of the parties at the time they negotiated or signed this Agreement.

918

SECTION

ALTERATION OF AGREEMENT

(A) No agreement, alteration, understanding or variation, waiver or modification of any of the terms or conditions or covenants contained herein shall be made by any employee or group of employees with the Company and in no case shall it be binding upon the parties hereto unless such agreement is made and executed in writing between the parties hereto and same has been ratified by the Union.

(B) The waiver of any breach or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all the terms and conditions herein.